

(2009) 09 JH CK 0055
In the Jharkhand High Court

Kamal Kumar Goenka, Haribansh Narayan Singh @ Harbansh
and Baijnath Mishra

APPELLANT

Vs

The State of Jharkhand and Ajay Chandra Singh

RESPONDENT

Date of Decision : 09-09-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 427, 499, 501, 502

Citation : (2009) 09 JH CK 0055

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prashant Kumar, J.—This is an application for quashing the entire criminal proceeding in connection with Complaint Case No. 78 1 of 2003 including the order dated 09.03.2004 passed by Sri. V.K. Tiwari, learned Judicial Magistrate, Ranchi, whereby and when under he took cognizance of the offence under Sections 427, 501 and 502 of the I.P.C.

2. It appears that the complainant, opposite party No. 2 filed a complaint petition in the court below alleging therein that the petitioners published news item in the daily Prabhat Khabar to the effect that M.C.C. had given a call for bandh in the whole of Jharkhand. It is stated that the said call of bandh was given only for Palamau and Chatra district. It is alleged that the complainant had organized a Mega-seminar on 09.02.2003 at Ranch. It is alleged that only with a view to sabotage the said seminar, the said news item published by the daily Prabhat Khabar which resulted into huge loss to the complainant. It is further alleged that on 10.02.2003 the accused persons published another news item stating that against the order of the court, welcome gates, hoardings etc. erected by complainant throughout the city causing disturbance to the traffic system. It is alleged that the aforesaid news item harms the reputation of the complainant. Accordingly, it is alleged that after under Sections 501, 502 and 427 of the I.P.C. is made out.

3. It is submitted by learned Counsel for the petitioners that from perusal of entire complainant petition no offence under Sections 427, 501 and 502 of the I.P.C. is made out. It is submitted that from perusal of Annexure-11, it is clear that a general news published in the Daily Prabhat Khabar that in violation of the order of Hon"ble High Court political parties and others including the complainant had erected welcome gates, hoardings, portraits etc. on the roads which jeopardized the traffic system of the city. It is submitted that there is nothing in the news item which cast any aspersion on the reputation of complainant, thus form no stretch of imagination, same can be termed as defamatory. It is submitted that there is nothing in the complaint petition to show that any mischief has been committed by the petitioners. Accordingly, it is submitted that no offence under Sections 427, 501 and 502 of the I.P.C. is made out.

4. On the other hand, learned Counsel for the opposite party No. 2 submitted that news published vide Annexure-11 caused harm to the reputation of complainant, there fore offence under Sections 501 and 502 of the I.P.C. is made out.

5. For holding a person guilty of the offence of defamation following there essential ingredients are required be proved:

(1) making or publishing any imputation concerning any person;

(2) such imputations must have been made

(i) by words, either spoken or intended to be read; or

(ii) by signs; or

(iii) by visible representations

(3) Such imputation must have been made with the intention to harm or with knowledge or having reason to belief that will harm the reputation of the person concerned to whom it is made.

6. From perusal of complaint petition, I find nothing which suggest as to how the news item published in daily Prabhat Khabar (Annexure-11) harmed the reputation of complainant. Annexure-11 reveals that welcome gates, hoardings etc. installed by the complainant and other political parties that in contravention of judicial order passed by the High Court. There is no personal imputation against the complainant in the said news item. Thus, the said news item in no way goes to cause any harm to the reputation of complainant. Moreover the said news item comes within the four corners of third exception to Section 499 of I.P.C.

7. Thus, I am of the considered view that no offence under Sections 501, 502 is made out. So far the offence u/s 427 of the I.P.C. is concerned there is nothing in the entire complaint petition to show that any property of the complainant was damaged by the accused petitioners. Thus, the offence of mischief is not made out against them.

8. In view of the discussion made above, I find that the order by which the cognizance was taken is an abuse of the process Of the court.

9. In the result, this application allowed. The entire criminal proceeding in connection with Complaint Case No. 781 of 2003 is hereby quashed.