
(2006) 06 OHC CK 0004
In the Orissa High Court
Case No : Criminal Revision No. 810 of 2005

Patitapaban Mishra

APPELLANT

Vs

Laxman Chandra Paul

RESPONDENT

Date of Decision : 29-06-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202
Penal Code, 1860 (IPC) — Section 499, 500

Citation : (2007) CLT 4 (Suppl CrI)

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.S. Naidu, J.—The Petitioner as complainant filed I.C.C. No. 134/2004 in the Court of Learned J.M.F.C., Jajpur Road, inter alia, alleging commission of offence u/s 500 I.P.C. by the accused-opp. party.

2. Bereft of unnecessary details the allegations made in the complaint petition are that on 6.12.2003 between 3.30 P.M. to 4.00 P.M., the Petitioner approached the accused-opp.party, who was the Branch Manger of Canara Bank at Jajpur Road, for obtaining an application form for withdrawal of a sum of Rs. 643.80 lying in deposit in the Savings Bank Account No. 6703 standing in the name of his son, who had unfortunately expired. The accused, who was working as the Branch Manager of the Bank, it was alleged, informed the Petitioner that an application should be filed by the widow of the deceased depositor enclosing the legal heir certificate. For the said purpose, the widow has to come to the Bank, fill up the application form and put her signature in presence of Branch Manager. Thereafter, it was told, the application along with the legal heir certificate shall be processed and the widow would be permitted to withdraw the amount for self and on behalf of other legal heirs, but then for the said purpose she has to once again come to the Bank. On coming to know about the procedure, the complainant wanted to know as to whether it was necessary for the widow to

come to the Bank twice and whether it would be possible to withdraw the amount on the strength of an affidavit sworn to in the Court, To the said question, it is alleged that the Branch Manager replied.

Court Kacheri Katha Kahuchhantita ? Sethi Sabu Chora" Apana Ehi Katha Pacharibaru Kahili.

3. Hearing the said answer the complainant along with the person who had accompanied him returned back, but then according to the complainant the answer given by the Branch Manager nomenclaturing all the persons in Courts to be thieves was defamatory. The accused, Branch Manager, having not apologized for such statement, it is stated that the Petitioner was constrained to file a complaint, which was registered as I.C.C. No. 134/2004 in the Court of J.M.F.C., Jajpur Road.

4. It appears that the Learned Magistrate recorded initial statement of the complainant and after perusing the averments made in the complaint petition and statement made by the complainant in Court finding that the words uttered by the accused were general in nature, not aiming at any particular individual, by order dated 7.10.2005 dismissed the complaint petition.

5. Thereafter the Petitioner preferred Criminal Revision No. 754/2004 before this Court challenging the said order dated 7.10.2004 passed by J.M.F.C., Jajpur Road almost on identical grounds as in the present case. The Crl. Revision was heard by this Court on 16.2.2005 and the following order was passed:

Heard the Petitioner in person. I am not satisfied about the prima facie good grounds in the revision. Hence the revision is rejected.

6. Thereafter the Petitioner filed a second complaint petition which was registered as I.C.C. No. 33/2005. Learned Magistrate recorded the initial statement of the complainant and the statement of another witness namely, Sri Patitapaban Bidhubhusan Mishra, produced by the complainant. After considering the allegations levelled in the complaint petition and the initial statements recorded in Court, by order dated 14.9.2005 Learned Magistrate observed that neither the complainant nor the witness whispered about the reputation of complainant and how it lowered down his prestige in the estimation of others. Learned Magistrate further observed that the statements alleged to have been made by the Branch Manager were general in nature not aiming at any individual. Taking note of the fact that an earlier complaint petition filed by the Petitioner on similar allegations was dismissed by the Trial Court and the Crl. Revision No. 754/2004 challenging the said order was dismissed by this Court holding that there were no prima facie good grounds, the second complaint petition could not be entertained.

7. The Petitioner, who is appearing in person, forcefully submitted that the Court below was completely unaware of the doctrine of INNUENDO for which it treated the allegations to be of general nature and not to be specific. According to the

Petitioner due to inadvertent reasons, specific allegations were not made in the first complaint petition filed by the him, being I.C.C. No. 134/ 2004. After the same was dismissed, the Petitioner filed the second petition making specific allegations and as such the Court below committed an error and illegally dismissed the second petition u/s 202 of the Code of Criminal Procedure The Petitioner argued his case emphatically. He also cited several decisions, but then as there is no quarrel with regard to the legal proposition, this Court refrains itself from relying to the same. Furthermore the facts and circumstances of the present case are distinctly different from the facts of the decisions cited. According to the Petitioner the statement "Court Kacheri Katha Kahuchhantita ? Sethi Sabu Chora" Apana Ehi Katha Pacharibaru Kahili". The aforesaid statements were defamatory in nature and the Court below acted illegally in not taking cognizance of the offence u/s 500 of the I.P. C. Section 500 of the I.P.C. provides punishment for defamation, and Section 499 of the I.P.C. defines defamation, which reads as follows:

Section 499. Defamation-Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted to defame that person.

8. A reading of the Section reveals that the person uttering the words should have the intention to defame a particular person. The words uttered should throw some imputation concerning the particular person and should not be vague in nature. According to Webster's Encyclopedic Unabridged Dictionary the word INNUENDO means "an indirect intimation about a person or thing, specially of a derogatory nature, a parenthetic explanation of specification in a pleading". According to Flexion the word INNUENDO signifies the averment of a particular meaning in a passage, but then if proved, would establish its" defamatory character. If a statement does not convey any defamatory imputation in its natural meaning, it may be because the words are innocent, or true or have two or more meanings, some of which are innocent or have to well-known meaning as in the case of slang, provincialisms, local or technical term not in common use. In all such cases the Plaintiff should set forth, by a statement in the plaint known as the "INNUENDO", the special or secondary meaning of a defamatory character, which the words complained of conveyed to the persons to whom they were intended 9. The complaint petition filed by the Petitioner reveals that the Petitioner has totally failed to make out a case that the principle of INNUENDO would be applicable to the case. The words alleged to have uttered never aimed at the complainant. The complaint petition and the initial statements also do not satisfy the basic ingredients of offence u/s 500 of the I.P.C. for taking cognizance thereof.

9. After going though the impugned order, the complaint petition and the order passed by this Court in the earlier Crl. Revision, I am satisfied that the impugned

order does not suffer from any-infirmity or illegality and I decline to interfere with the same.

The Crl. Revision is accordingly dismissed.