

D.Chenna Re Vs. the State of A.P. Rep.by Its Public Pros

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Court : Andhra Pradesh

Decided On : Jun-20-2013

Judge : R.Kantha Rao

Appellant : D.Chenna Re

Respondent : The State of A.P. Rep.by Its Public Pros

Judgement :

THE HON'BLE Sr.JUSTICE R.KANTHA RAO CRIMINAL PETITION No.5660 OF2013dated:20-06-2013 D.Chenna Reddy.Petitioner The State of A.P.rep.by its Public Prosecutor..Respondent Counsel for the petitioner: Sr.V.Nitesh Counsel for respondent: -- Public Prosecutor : : ?.Citations: THE HON'BLE Sr.JUSTICE R.KANTHA RAO CRIMINAL PETITION No.5660 OF2013

ORDER

: This criminal petition is filed under Section 482 of the Code of Criminal Procedure to quash the show-cause notice, dated 08-05-2013, issued by the Sessions Judge, Ananthapur alleging that petitioner gave false evidence in S.C.No.464 of 2012 and thereby committed an offence punishable under Section 193 IPC.

Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor representing the State.

I have perused the judgment rendered by the Sessions Judge in S.C.No.464 of 2012 and show-cause notice, dated 08-05-2013, issued to the petitioner.

The petitioner is a Village Revenue Officer of Bathalapalli village in Ananthapur District.

He was figured as mediator in the charge sheet filed by the Investigating Officer in S.C.No.464 of 2012 on the file of the Court of District & Sessions Judge, Ananthapur.

In the said case, the accused was tried for the offence under Section 302 IPC and was ultimately acquitted by the Sessions Judge, Ananthapur, on the ground that the prosecution failed to establish the guilt of the accused.

According to the prosecution, the petitioner was present when the police arrested the accused and recorded the confession of the accused, which lead to recovery of gunny bag containing iron pipe and cell phone.

The said articles were allegedly seized under the cover of panchanama, which was attested by the petitioner and another.

The petitioner who was examined as P.W.6 stated in the evidence before the learned Sessions Judge that on 02-01-2012 at about 1.30 PM, the Inspector of police called him to Pothukunta Police Station, Dharmavaram, informed him that he arrested the accused in Obulapuram murder case and asked the petitioner to subscribe his signatures on panchanama.

Accordingly, the petitioner subscribed his signatures.

While rendering the judgment in the said Sessions Case, the learned Sessions Judge observed that the petitioner/P.W.6 signed on each page of the panchanama, knowing that they would be used as evidence in Court in the trial of murder case and gave contradictory version in the Court.

Making the said observation, learned Sessions Judge issued show-cause notice against the petitioner stating that he gave false evidence and therefore, committed an offence punishable under Section 193 IPC.

The mere fact that the petitioner deposed contrary to the contents of the panchanama does not by itself indicate that the petitioner gave false evidence.

The petitioner in chief examination clearly stated that he was called to the police station and was informed by the Inspector of Police that he arrested the petitioner in Obulapuram murder case and thereafter the Inspector asked him to sign on the panchanama.

The document i.e.panchanama cannot be treated as a substantive piece of evidence, unless the contents mentioned in panchanama are spoken to by the witness to the said document, It cannot be said to be proved in the couRs.of trial before the Learned Sessions Judge.

Except the evidence of the Investigating Officer, there was no material before the Learned Sessions Judge showing that the petitioner gave false evidence.

The version of the petitioner that the Inspector of police obtained his signatures on the panchanama stating that he arrested the accused in Obulapuram murder case may also be true.

In Chajoo Ram Vs.Radhey Sham reported in AIR 1971 SC1367 the Supreme Court dealing with the same situation held as follows:- "

the prosecution for perjury should be sanctioned by Court only in those cases where the perjury appears to be deliberate and conscious and the conviction is reasonably probable or likely.

No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose.

Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial.

There must be prima facie case of deliberate falsehood on a matter of substance and the Court should be satisfied that there is reasonable foundation for the charge."

In the instant case, as already said, absolutely there was no material before the learned Sessions Judge showing that the petitioner gave false evidence.

The learned Sessions Judge only indicated in the notice that petitioner having signed the panchanama gave evidence contrary to its contents and therefore, resorted to give false evidence.

The view taken by the learned Sessions Judge is misconceived and without there being any sufficient material before him indicating giving false evidence by the petitioner, had taken steps to prosecute the petitioner according to the provisions of Section 344 Cr.P.C.and issued show-cause notice.

In pursuant to the said show-cause notice, petitioner is made to face further proceedings.

It would be only a futile exercise and ultimately, it would result in mis-carriage of justice.

Therefore, show-cause notice, dated 08-05-2013, issued by the Sessions Judge, Ananthapur is quashed and accordingly, the Criminal Petition is allowed.

The miscellaneous petitions, if any, filed in this petition shall stand closed.

_____ R.KANTHA RAO,J Date: 20.06.2013

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