

Kewal Krishna Wadhwa and anr. Vs. State of Bihar and anr.

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Court : Patna

Decided On : Nov-02-1999

Judge : Narayan Roy, J.

Appeal No. : Criminal Misc. No. 7347 of 1995

Appellant : Kewal Krishna Wadhwa and anr.

Respondent : State of Bihar and anr.

Disposition : Application Allowed

Prior history : Narayan Roy, J. 1. Heard learned Counsel for the petitioners. However, no one appears on behalf of the Complainant-opposite party No. 2. 2. This application under Section 482 of the Cr. P.C. has been filed challenging the entire criminal prosecution launched against the petitioners under Section 500 of the I.P.C., in complaint case No. 1023(c)/94. Learned Counsel for the petitioners submitted that even at the face of the complaint petition no offence whatsoever is made out against the petiti

Judgement :

Narayan Roy, J.

1. Heard learned Counsel for the petitioners. However, no one appears on behalf of the Complainant-opposite party No. 2. 2. This application under Section 482 of

the Cr. P.C. has been filed challenging the entire criminal prosecution launched against the petitioners under Section 500 of the I.P.C., in complaint case No. 1023(c)/94. Learned Counsel for the petitioners submitted that even at the face of the complaint petition no offence whatsoever is made out against the petitioners as the allegations levelled by the Complainant relates to the internal correspondence in between the petitioners who are officials of the Life Insurance Corporation of India and the Complainant. Learned Counsel for the petitioners has drawn my attention to the complaint petition and the letters attached with the complaint petition allegedly showing defamatory words used against the Complainant. From the letters attached to the complaint petition, it would appear that the Corporation from time to time had reminded the complainant of the infirmities committed by him and by last letter the Complainant was requested not to examine any proponent or to take E.C.Gs. in connection with the L.I.C. proposers till sufficient explanation is given by the complainant on the points already raised by the petitioners. Learned Counsel for the petitioners submitted that the actions taken by the petitioners in good faith comes under Exception 2 and 3 of Section 499 of the I.P.C. and in that view of the matter, no offence under Section 500 of the I.P.C. is made out against the petitioners. Section 499 of the I.P.C. defines defamation and it reads as under:

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 persons.

Explanation J.--It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.--It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.---An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.--No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally, considered as disgraceful.

3. From the definition of defamation, it appears that 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 reasons to believe that such imputation will harm, the reputation of such person, is said; except in the cases hereinafter excepted to defame that person. Exception 2 of Section 499, I.P.C. deals with public conduct of public servants. It contemplates that it is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further* Exception third of Section 499 of the I.P.C. further contemplates that it is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

4. I have perused the complaint petition and the letters attached to it. At the face of the complaint petition, it appears that the complainant has been reminded of his duties through correspondence by the petitioners and he was been stopped from examining the proponents till further direction. In no way the correspondence made between the petitioners and the Complainant makes out a case of imputation harming the reputation of the Complainant rather they have been done in good faith in discharge of the official duties. The letters written by the petitioners in that view of the matter in no way can be said to be defamatory causing imputation to the reputation of the complainant. On the totality of the allegations levelled in the complaint petition, in my opinion, no offence under Section 500 of the I.P.C. is made out against the petitioners. Besides these questions, it is pointed out by the learned Counsel for the petitioners that the petitioners are

protected under Section 47 of the Life Insurance Corporation of India Act, 1956. It contemplates that no suit, prosecution or other legal proceeding shall lie against any member or employee of the Corporation for anything which is in good faith done or intended to be done under this Act. The action of the petitioners; in this view of the matter, must be held to be protected under Section 47 of the Life Insurance Corporation of India Act, 1956.

5. For the reasons and discussions aforementioned, therefore, the entire criminal prosecution launched against the petitioners is liable to be quashed as it would occasion abuse of the process of the Court. In the result, this application is allowed and the entire criminal prosecution launched against the petitioner is hereby quashed.

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