

Jogendra Kumar Sarkar Vs. Hem Chandra Roy

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Court : Guwahati

Decided On : Jan-22-1963

Judge : T.N.R. Tirumalpad, J.C.

Appellant : Jogendra Kumar Sarkar

Respondent : Hem Chandra Roy

Judgement :

T.N.R. Tirumalpad, J.C.

1. There are no merits at all in this appeal against acquittal. The respondent was charged Under Sections 353 and 506 Indian Penal Code on the complaint of one Jogendra Kumar Sarkar, an Amin of the Tribal Welfare Department at Belonia, that on 17-6-1960 when he went to Kalshibazar at Belonia along with the B. D. O., the Agricultural Extension Officer and one Sugar Choudhury to show the respondent a map of the site of the proposed Agricultural Demonstration Farm, the respondent became very much excited and abused the complainant in filthy language and threatened to kill him and that on account of such threat, he could not take the B. D. O. and Agricultural Extension Officer to the proposed site and thereby he was prevented from discharging his official duty. The learned munsiff-magistrate who held the trial found that the case was not proved and he acquitted the accused. The learned Counsel for the appellant did not seriously press the appeal as far as the charge Under Section 353 I. P. C, was concerned. In fact, there was no evidence to show either that the complainant was executing his duty

as a public servant at the time when the occurrence was said to have taken place or that there was any assault or use of criminal force. The case was pressed only regarding the charge Under Section 506 Indian Penal Code namely, the charge of criminal intimidation.

2. I was taken through the evidence by the learned counsel appearing for the appellant. No doubt the complainant as well as P, Ws. 3, 4, 5 And 6 all stated that when the complainant gave the map of the site of the proposed Demonstration Farm to the respondent in his house, the respondent said that the land was in the possession of one Mog and that it could not be selected as a site and when the complainant said that it was his land, the respondent became angry and said that he will tear off the map and would kill him and would bury him and that he will not allow the construction of the Demonstration Farm at that place. All the witnesses no doubt said that the respondent uttered the above words in a very excited mood. But it turned out from the evidence of the complainant himself that after these words were used, the complainant along with the other persons continued to remain in the house of the respondent and that tea was served by the respondent to all of them and that the B.D.O. and all the others took tea, though the complainant himself refused to take the tea in view of the behaviour of the respondent.

Having regard to all this, it cannot be said that the charge of criminal intimidation has been proved. No doubt the respondent appears to have used the words that he will kill the complainant and bury him. This may no doubt amount to threat of injury to the person of the complainant. But it must be shown, in order to prove criminal intimidation, that the threat was with intent to cause alarm to that person or to cause that person to do any act which he was not legally bound to do or to omit to do any act which he was legally entitled to do. The intent has not been proved in this case. After all, the respondent is an old and sick man aged 74 years and these 4 or 5 persons had gone to his house and if in the course of the talk, he got excited and said that he will kill the complainant, nobody will take him seriously and nobody will get alarmed. In fact, nobody actually got alarmed and all of them remained in the house and had tea with the respondent except the complainant, who appears to have been somewhat annoyed by the words used by the

respondent. It seems to me that much 'has been made about a silly incident in which an -old man appears to have got excited and used -some meaningless words. This should not have 'been taken seriously at all by the complainant for launching a criminal case against him. I see no -ground to interfere in this appeal. The appeal is, therefore, dismissed.

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