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Court : Patna

Decided On : Jul-01-1998

Judge : Ravi Nandan Sahay. J.

Appeal No. : Cri. Misc. No. 5882 of 1993

Appellant : Prannoy Roy and ors.

Respondent : Ashok Kumar Verma and ors.

Advocate for Pet/Ap. : Mr. Shahi

Disposition : Application Allowed

Judgement :

Ravi Nandan Sahay, J.

1. By this application under Section 482. Cr P.C. two petitioners seek an order quashing the order dated 18-11-1992 in Complaint Case No. 270 (C) 92/Tr. No. 1319/92, whereby the Judicial Magistrate, 1st Class, Arrah has taken cognizance of offences punishable under Sections 500, 501, 502 and 469 of Indian Penal Code and issued processes against the petitioners.

2. Petitioner No. 1 Prannoy Roy has a Doctorate Degree (Ph. D.) in Economics from Delhi School of Economics, Delhi University. He is a qualified Chartered Accountant and a fellow of Chartered Accountants of England and Wales. He has

served as a Professor at Delhi School of Economics and was also the Economic Advisor to the Ministry of Finance. He is a well known media personality and has received national and international acclaim for his contribution to television as a Broadcaster and a leading psephologist of India. He is also the anchorman of the weekly television programme. 'The World This Week'. Petitioner No. 2 Mr. Arun Shourie was the Editor and publisher of a leading national publishing house which publishes the internationally renowned magazine 'India Today'. He is also a well known media personality who has made a significant contribution to the Press and Communication in general.

3. On 13-7-1992 opposite party No. 1 Ashok Kumar Verma, a resident of Arrah town claiming to be a social worker and writer, filed a complaint stating that he had been associated with late Babu Jagjiwan Ram since 1962 and had received fatherly affection from him. Due to his close association with late Babu Jagjiwan Ram he had the privilege of watching and observing his personality. He had written several bibliography of late Babu Jagjiwan Ram. He had gone to Delhi to participate in the death anniversary of late Babu Jagjiwan Ram on 1st July, 1992 and while he was in Delhi he purchased a book titled 'India decides.' He returned to Arrah on 8-7-1992. He read the book and was deeply hurt to read some portion of the book.

4. The complaints states that at page 142 the book contains wrong statistics regarding parliamentary election of the year 1952. It has been shown therein that Sri Ram Subhag Singh was winner from Arrah Parliamentary Constituency was a candidate of Indian National Congress and his nearest rival was late Babu Jagjiwan Ram, who has been shown to have lost at the hustings. Similarly, at page 143 of the book statistics regarding 1957 Parliamentary election has been given. It has been shown that Sri Ram Subhag Singh was the winner from Bikramganj Parliamentary Constituency and late Babu Jagjiwan Ram has been shown to have lost as an independent candidate. According to the complainant, late Babu Jagjiwan Ram in between 1952 to 1984 always contested elections from Sasaram Scheduled Caste Constituency and was always elected. He had never contested election from any political party either from Bikramganj or Arrah. The complainant felt aggrieved by the incorrect statistics in the book. The complaint felt

that the author of the book namely, the petitioners and two others are internationally known figures but they have indulged in political conspiracy to malign the image of late Babu Jagjiwan Ram and thereby to tend to lower his image.

5. Learned Magistrate on consideration of statements of three witnesses produced on behalf of the complainant felt satisfied that prima facie there was sufficient material to initiate proceeding under Sections 500, 501, 502 and 469 of Indian Penal Code.

6. Mr. Shahi, learned Counsel for the petitioners challenged the order of the Magistrate as illegal and without jurisdiction on the ground that the complainant not being related to Babu Jagjiwan Ram, was not competent to file complaint in view of Section 199, Cr. P.C. which lays down that no Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence. Mr. Shahi has placed reliance on the decision of the Apex Court in *O. Narasimhan v. T.V. Chokkappa* : 1973 CriLJ52 , in which the Supreme Court held that Section 199, Cr. P.C. is mandatory and if the Magistrate was to take cognizance of the offence of defamation on a complaint filed by one who is not an aggrieved person, the trial and conviction of an accused would be void and illegal. Even otherwise, Mr. Shahi submitted that wrong statistic in the book or incorrect statement in the book cannot amount to defamation. It is clear from the definition of Section 499, IPC that such statement, publication or imputation can be characterized defamatory where there is intention to harm or there is reason to believe that such statement will harm the reputation of such person in respect of whom such statement has been made. Such imputation must have been made with an intention to harm or knowledge or having reason to believe that such imputation will harm the reputation of such person.

7. As held in AIR 1926 Lahore 278, an imputation ordinarily implies an accusation or something more than an expression of a suspicion. The words complained of must contain an imputation concerning some particular person or persons whose identity can be established. If the words complained of contain no reflection upon a

particular individual or individuals, but may equally apply to others although belong to the same class, an action will not lie. In the instant case, admittedly, there is no allegation whatsoever of any allegation having made about late Babu Jagjiwan Ram.

8. In *John Manjooran v. Stephan CM*, 1973 Cr. L. J. 1722 (Kerala), the accused, who was the President of Kerala Indian National Trade Union Congress, had at a largely attended public meeting, characterised the complainant, the then Labour Minister, as a salaried employee of the Marxist Communist Party. On a complaint filed under Section 500, it was held that there was no intention on the part of the accused to defame the complainant personally; he had indulged in a criticism of the Government that was in power at that time and accidentally the status of the Labour Minister, who allegedly was being used as stooge in the hands of the Marxist Communist Party also came up for criticism. Nothing more than this could be attributed to his statement and it had not resulted in undermining the prestige or reputation of the complainant as an individual.

9. Here in the instant case in the book only wrong statistics has been given. There is no statement in the book about Babu Jagjiwan Ram which can be characterised as defamatory. The complainant is thoroughly misconceived. The Magistrate without appreciating what are the ingredients for an offence under Section 500, took cognizance. The order of the Magistrate on the face of it is illegal and without jurisdiction.

10. This application is accordingly allowed and the impugned order of cognizance and the entire proceeding is hereby quashed.

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