

V.S. Joshi and anr. Vs. N.G. Bhat Chitrigi and anr.

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Court : Karnataka

Decided On : Dec-06-2005

Reported in : 2006CriLJ1566; ILR2006KAR735; 2006(1)KarLJ495

Judge : Mohan Shantanagoudar, J.

Acts : Indian Penal Code (IPC) - Sections 34, 323, 504 and 506; [Code of Criminal Procedure \(CrPC\)](#) , 1973 - Sections 200 and 204

Appeal No. : Criminal Petition No. 1465 of 2003

Appellant : V.S. Joshi and anr.

Respondent : N.G. Bhat Chitrigi and anr.

Advocate for Def. : S.V. Shastri, Adv. for R1 and ;B.A. Belliappa, HCGP, for R2

Advocate for Pet/Ap. : C.H. Jadhav, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Mohan Shantanagoudar, J.

1. Petitioners being the accused in Private Complaint No. 31/2003, have sought for quashing the proceedings pending on the file of I Addl. J.M.F.C, Sirsi.

2. The Learned Magistrate has issued process against the petitioners for the offences punishable under Sections 323, 504, 506 r/w. Section 34 of IPC. Respondent No. 1 is the complainant who is advocate by profession. Accused are officials of revenue department. The complaint and the sworn statement of the complainant prima facie disclose that he went to the office of the accused on 20.1.2003 at 5.00 p.m. to enquire about the supply of certified copy of record of rights of the property pertaining to his client. The accused, instead of reasonably and properly responding to the complainant about the supply of the copies of fresh record of rights, started abusing the complainant. It is alleged that the accused has uttered the following words against the complainant.

Thereafter, the complainant was pulled out of the office by the accused. Based on the said complaint and the sworn statement, the Trial Court has issued process against the petitioners for the aforesaid offences.

3. Learned Counsel for the petitioners submits that as the petitioners are public servants, the complainant should have obtained sanction prior to lodging of the complaint, as required under Section 197 of Cr.P.C. Secondly, he submits that as the cognizance is taken after recording the sworn statements, the proceedings vitiate.

4. The aforementioned utterances of the accused in public not only tarnishes the entire class of advocates, but also the Civil Judge concerned. The act of making such utterances will not fall within the purview of the official duty of public servants. It is not possible to accept the contention of Learned Counsel for the petitioners that the aforesaid utterances by the petitioners are connected with the discharge of the petitioners' official duty. Calling the respondent-Advocate as mischievous and causing aspersions on the Judicial Officers cannot even remotely be said to be connected with the discharged of official duty of the petitioners. In this case, there is no reasonable connection between the act in question and the discharge of official duty. Filthy abuses allegedly made by the petitioners, if proved, would amount to offence. Hence, such act of the petitioners can never be an official duty. Hence, the complainant need not obtain sanction by the concerned authority to prosecute the accused, in such cases.

5. The operative portion after order of Court below reads thus:

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