

In Re: Ghulam Sarwar Figar

In Re: Ghulam Sarwar Figar

SooperKanoon Citation : sooperkanoon.com/428675

Court : Andhra Pradesh

Decided On : Mar-26-1962

Reported in : 1962CriLJ740

Judge : P. Chandra Reddy, C.J.,; Manohar Pershad and; Kumarayya, JJ.

Appellant : In Re: Ghulam Sarwar Figar

Judgement :

ORDER

P. Chandra Reddy, C.J.

1. This application Under Section 99-B of the Criminal Procedure Code is made in the following circumstances.

2. An order of forfeiture of the book called 'Mawai Kashmir' was made by the Government of West Bengal on the 6th November 1961 on the ground that the book published by the petitioner was deliberately And maliciously intended to promote feelings of enmity and hatred between the Hindu and Muslim citizens Of India, the publication of which was punishable under Section 1b3-A IPC This was also published in the Gazette of West Bengal. The Government of Andhra Pradesh re-published the notification on 28-12-1961 bearing Notification No. G. 0. Ms. 2437 dated 7-12-1961. The petitioner seeks to set aside the order of forfeiture of the book called 'Nawai Kashmir' printed at Taj Press, Calcutta, published by Hati and Co., and for costs of and incidental to the petition.

3. It may be mentioned here incidentally that in the petition the prayer is to set aside notification and order dated 28-12-1961. Be that as it may, Section 99-B of the Criminal P. C. could be resorted to only for getting the order of forfeiture set aside. In this case, that Section is of no avail for the reason that it is not the Andhra Pradesh Government that issued the order of forfeiture. It is the Government of West Bengal that made the order Under Section 99-A Cr.PC If so, the remedy, if any, of the petitioner is to move that High Court which has jurisdiction over the authority that promulgated the order Under Section 99-A. It is also significant that Section 99-G says :

No order passed or action taken Under Section 99-A shall be called in question in any court otherwise than in accordance with the provisions of Section 99-B.

Surely, the action contemplated by this petition does not fall Under Section 99-B. Section 99-G contains a prohibition against any other mode of calling in question the order of forfeiture made Under Section 99-A, except in the manner indicated in Section 99-B.

4. There is another obstacle in the way of the petitioner invoking Section 99-B. The order of forfeiture was made on 6-11-1961 whereas this petition was filed on 31-1-1962, i.e., more than two months after the order of forfeiture. It should be remembered that it is the order of forfeiture that furnishes the 'cause of action' and not the re-publication of the notification. On 'This round also, this petition has to fail.

5. In the result, the petition fails and. Is dismissed.