

Emperor Vs. Murat Singh and ors.

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Court : Allahabad

Decided On : Dec-15-1933

Reported in : AIR1934All904; 152Ind.Cas.1057

Appellant : Emperor

Respondent : Murat Singh and ors.

Judgement :

Bennet, J.

1. This is a reference by the Sessions Judge of Jhansi recommending that a conviction of 21 persons by a Magistrate under Section 500, Penal Code, and fines of Rs. 5 each or in default one month's simple imprisonment, should be set aside. The accused were convicted for defamation of the complainant, Daya Ram, by making a statement in an application to the Sub-Divisional Magistrate dated 19th April 1933. The case in question was in regard to the appointment of a mukhia, and a complaint had been made by a lihamar called Ram Din, for the removal of the mukhia Panna Lai, and apparently for the appointment of Daya Ram in his place. The petition of the accused persons was in support of the mukhia Panna Lal and it represented that he was of good character and that Daya Ram who desired to get his place was a person unfit for the office of mukhia. The particular expression complained of in regard to Daya Ram is contained in the following clause:

Musammat Daya Ram aur Ram Kumar jo ke nihayat bad chalan aur saza yafta shahhs hain.

2. The interpretation of this clause is in dispute, and for the complainant it has been alleged that the clause must mean that both the complainant and his brother Ram Kumar are of bad character and are previous convicts. For the defence it is claimed that the clause may be read that Daya Ram is of bad character and his brother Ram Kumar is a previous convict. The clause as it stands is not clear, and if the word 'both' had been introduced or the words 'one' and the 'other,' then it would have been clear which of the different meanings was intended. Evidence was given which was accepted by the Sessions Court to the effect that in the draft as originally made the statement was as the accused suggests, and that the scribe who made out the petition did not read it over to the applicants, and that he altered the draft to its present form. I think, it may fairly be said that under these circumstances the accused did not make the statement more than that Daya Ram was of a bad character. The lower Court considers that the first Exception to Section 499 applies. That Exception states:

It is not defamatory to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

3. Under this the defence had to prove two points, that the statement was true and that it was made for the public good. Evidence was produced that 4 or 5 years ago a child was born to the wife of Ram Kumar at a time when her husband had been in jail for five years. She was living in the house of her brother-in-law, Daya Ram, and he did not turn her out of the house, and the entry of the child's birth was made in a register produced showing Daya Ram as the father. Under these circumstances the Sessions Court concluded that it was proved that Daya Ram was the father of this illegitimate child. I see no reason to differ from that conclusion. This proves that Daya Ram was a man of bad character. It is also a fact that the offence of adultery under Section 497, Penal Code, is a serious criminal offence in this country, and therefore even if there was a statement in the petition indicating that Daya Ram had been convicted, the evidence which shows

that he ought to have been convicted under Section 497, Penal Code, indicates that the statement was substantially true. In regard to the point of public interest, the occasion was a petition against a mukhia, and it was in the public interest that it should be shown to the authorities, that is, the Sub-Divisional Magistrate, that the complainant, Daya Ram, who was apparently suggested as mukhia, was a person who was unfit for that office. I therefore consider that the conviction is incorrect and should be set aside. I allow this reference and I set aside the convictions of the accused under Section 500, Penal Code, and I acquit the accused of the charge under that section and I direct that the fines, if paid, be refunded.

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