

C.P. Vedra Vs. State

C.P. Vedra Vs. State

SooperKanoon Citation : sooperkanoon.com/466846

Court : Allahabad

Decided On : Jul-07-1965

Reported in : 1966CriLJ825

Judge : G. Kumar, J.

Appellant : C.P. Vedra

Respondent : State

Judgement :

ORDER

G. Kumar, J.

1. This is a revision against the conviction of the applicant of an offence under Section 193 of the Indian Penal Code. He was sentenced by the Magistrate to undergo six months' rigorous imprisonment. On appeal, his conviction and sentence were maintained by the Additional Sessions Judge.

2. In support of his transfer application, the applicant had filed his affidavit saying that on 4.11.1961 Shri Brijanandan Lal, retired District and Sessions Judge had threatened him that he should pay the decretal amount and vacate the house in question, otherwise by exercising his influence with the court, he would get the applicant sent to jail. The learned District Judge instituted an enquiry under Section 476, Cri. P.C. and was prima facie satisfied that the applicant had sworn a

false affidavit inasmuch as Shri Brijnandan Lal was not at Moradabad on 4.11.1961 but was at Allahabad on that date; as such he could not have altered the words attributed to him. The District Judge accordingly directed a complaint to be filed under Section 193, I.P.C. against the applicant, who was convicted by the Magistrate as-stated above.

3. The point urged by Sri P.C. Chaturvedi on behalf of the applicant is that no proceedings under Section 476, Cri. P.C. could have-been launched in view of the fact that they were barred by Section 479A of the Code. This-point was also raised before the lower appellate court, which overruled the same. It may be pointed out that Section 479-A, Cri. P.C. comes-into play only when the accused had actually appeared as a witness before a court and has either intentionally given false evidence or has intentionally fabricated false evidence for the-purpose or being used in any stage of the judicial proceeding. This is quite clear iron the following words used in the section:

.any person appearing before it as a witness has intentionally given false evidence-in any stage of the judicial proceeding or has intentionally fabricated false evidence for the-purpose of being used in any stage of the judicial proceeding..

In other words, both or either of the above-alternative offences must be committed by him as a witness appearing before a court, and not as a person merely filing an affidavit without stepping into the witness box, in any proceeding before a court of law. This interpretation is supported by the subsequent clauses in Section 479A of the Code, which read as below (the-underlined (here into) are mine):

.it is expedient that, such witness should be prosecuted for the offence which appears to have been committed by him the-court shall, at the time of the delivery of judgment or conditional order disposing of such proceeding, record a finding to the effect setting its reason therefor and may, if it so thinks fit, after giving 'the witness' an opportunity of being heard, make a complaint thereof in writing..

It is thus abundantly clear that the person complained of must necessarily appear as a witness in the court before proceedings under Section 479A, Cri. P.C. could

be launched against him, The legal objection raised by the applicant's learned Counsel is, therefore, without substance, inasmuch as the applicant had merely filed his affidavit in support of the transfer application but had never appeared as a witness before the District Judge. The trial Court as well as the lower appellate court were fully satisfied I (and so am I) that the material averments of the applicant in his affidavit were absolutely false to his knowledge. His conviction was, therefore, perfectly justified.

4. So far as the quantum of sentence is concerned, I think it is somewhat excessive. Sri Chaturvedi has stated that if apart from the sentence already undergone the applicant is ordered to pay substantial amount or fine, it would not be considered by him as enhancement of his sentence. The applicant had been only about one week in jail, when he was ordered to be released on bail by this Court on 4.5.1964. Taking the most lenient view of the matter, the substantive sentence of about one week would be far too inadequate to meet the ends of justice in a blatant case of the present nature. I am of the view that a substantive sentence of one month's rigorous imprisonment and a fine of Rs. 3,000 would meet the ends of justice. I order accordingly. The applicant will, therefore, immediately surrender to serve out the remaining sentence of imprisonment and pay the amount of fine. In case of default of payment of fine, he shall undergo further rigorous imprisonment for a period of 'One month.

5. With the above modifications the revision stands dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com