

Jokhai and anr. Vs. the State

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Court : Allahabad

Decided On : Nov-15-1950

Reported in : AIR1951All585

Judge : P.L. Bhargava, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 500; [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 198

Appeal No. : Criminal Revn. No. 409 of 1950

Appellant : Jokhai and anr.

Respondent : The State

Advocate for Def. : P.N. Chaudhari, D.G.A

Advocate for Pet/Ap. : J. Swarup and ;Hari Swarup, Advs.

Disposition : Application rejected

Judgement :

ORDER

P.L. Bhargava, J.

1. This is an application in revision by Jokhai and Bhagwati, who were convicted by a Magistrate of Bhadohi (Banaras) for an offence punishable under Section

500, Penal Code, and each of whom was sentenced to pay a fine of Rs. 40, or in default of payment of fine to undergo rigorous imprisonment for one month. The applicants went up in revision to the Sessions Judge of Bhadohi ; but the revision was rejected. Now, they have come up to this Court in revision.

2. The facts which have given rise to this revision are these : The applicants, Jokhai and Bhagwati, and the complainant, Ram Sumer Chamar, live in the same village ; Jokhai is the Chaukidar, while Bhagwati is the Mukhia of the village. Ram Sumer filed a complaint against the applicants alleging that owing to enmity the applicants had circulated a false rumour in the village that the complainant's daughter-in-law, whose husband was away from the village, was pregnant and there was miscarriage; and that on hearing about the rumour a Sub-Inspector of police had come to his house, examined his daughter-in-law and found that the news circulated by the applicants was false. He further alleged that in consequence of the false rumour spread by the applicants, and in view of the visit of and examination of his daughter-in-law by the Sub-Inspector, both he and his daughter-in-law were defamed.

3. The applicants denied the allegations made against them ; but the trial Court found that the allegations made against the applicants were true. The learned Sessions Judge upheld the findings of the trial Court. In the Court of the session it was contended on behalf of the applicants that Ram Sumer, the complainant had no right to file a complaint, inasmuch as he was not an aggrieved person within the meaning of the expression used in Section 198, Criminal-P. C. This contention was repelled by the learned Sessions Judge who pointed out that in a joint Hindu family the father-in-law was so connected with the daughter-in-law that the defamation of the daughter-in-law was the defamation of the whole family, including the father-in-law; and that the proceedings were, therefore, rightly initiated by the father-in-law.

4. In this revision, the only point raised by the learned counsel for the applicants is that the proceedings were not properly initiated as the complainant, Ram Sumer, had no right to file the complaint and the trial Court had no jurisdiction to entertain the same. Learned counsel has urged that, in view of the imputation against the

chastity of the daughter-in-law, the real person aggrieved by the conduct of the applicants was the daughter-in-law and the proceedings could be initiated only on a complaint filed by her. The proceedings must be held to have been properly initiated, firstly because it was clearly alleged in the complaint that on account of the imputation and the visit of and the examination of the daughter-in-law' by the Sub-Inspector, not only the daughter-in-law but also Ram Sumer was defamed by the applicants. Ram Sumer was, therefore, also an aggrieved person and as such he was entitled to file the complaint. Secondly, in the society to which the complainant belongs, an imputation, of unchastity against a daughter-in-law is regarded as an imputation against the entire family, more particularly of the near relatives. In a case like this, where the applicants, had, owing to enmity, deliberately circulated a false rumour imputing unchastity to the complainant's daughter-in-law and his son was absent, they really intended to harm the reputation of the complainant as also of his family. The complainant was, therefore, no less an aggrieved person.

5. The learned counsel for the applicants referred to the proviso to Section 198, Criminal P. C. but that proviso lays down the procedure to be followed when the aggrieved person is a woman who cannot appear in public, or is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint. The proviso has, therefore, no relevancy in the present case.

6. Learned counsel for the applicants has invited my attention to the following two cases : Bishwanath Bubna v. The King, A.I.R. (36) 1949 Cal. 567 : (50 Cr. L. J. 972), Mususis Din v. Jagannath, 1893 A. W. N. 207.

7. These cases, however, support the view which I have expressed above. In those cases it was held that an imputation of unchastity against the wife, entitled the husband to file a complaint of defamation. In other words, where the imputation was against the wife the husband was also held to be an aggrieved person, within the meaning of Section 198, Criminal P. C. There are other cases also in which a similar view was expressed; and I may mention here a Full Bench decision of the Bombay High Court in Chhotelal Lallubhai v. Nathabhai, 25 Bom. 151 : (2 Bom L. R. 665 F.B.)

8. In a case where a false imputation of unchastity is made against the daughter-in-law who is living with her father-in-law, the reputation of the entire family suffers, and if husband of the woman is absent, the father-in-law is an equally aggrieved person within the meaning of that expression in Section 198, Criminal P. C., and as such he is entitled to initiate the proceedings under Section 500, Penal Code.

9. I, therefore, see no force in the contention put forward on behalf of the applicants. The revision is, accordingly, rejected.

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