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Narayan Singh Vs. Rajmal

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Court : Madhya Pradesh

Decided On : Aug-19-1960

Reported in : AIR1961MP12; 1961CriLJ91

Judge : V.R. Newaskar, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 500; Code of Criminal Procedure (CrPC) , 1898 - Sections 417(3)

Appeal No. : Misc. Criminal Case No. 13 of 1980

Appellant : Narayan Singh

Respondent : Rajmal

Advocate for Pet/Ap. : G.L. Ojha, Adv.

Disposition : Petition dismissed

Judgement :

V.R. Newaskar, J.

1. This is a petition under Section 417 (3) of the Cr. P.C. against an order of acquittal recorded by the Additional District Magistrate Mandsaur in a case started on a complaint of the petitioner under Section 500, I. P.C.

2. The facts of the case are that a certain defamatory matter appeared in the issue of 'Dwaja' of 25-5-1955 which is published from Mandsaur. That defamatory matter with reference to the petitioner's Hotel had the effect of adversely affecting his business and also of bringing him down in the eyes of the public.

3. The defence of the opponent was that on the material date he was absent on duty having entrusted the work to a competent person who was the sub-editor.

4. The learned court below held that on the material date the opponent had gone out to Ratlam and that the news item was not printed by the Assistant Editor Mangilal and that therefore although the matter published was defamatory the opponent could not be held criminally liable. It therefore acquitted him.

5. The present petition is directed against the aforesaid order. It is contended by Mr. Ojha for the petitioner that the editor of a newspaper is criminally liable if any defamatory matter is published in his absence and that it is no defence to say that somebody was responsible for publishing it.

6. This contention may have some force if the absence is in bad faith and the person to whom the work of editing is entrusted is thoroughly incompetent to discharge the onerous duty to the knowledge of the editor.

7. In the present case it is held established that the opponent editor was absent from duty for a bona fide purpose and the work of editing was entrusted to a subordinate who occupied the position of a sub-editor. In this state of facts the court below was justified in acquitting him. Vide Ramasami v. Lokanada, ILR 9 Mad 387 and Emperor v. Muhammad Siraj, AIR 1928 AH 400. The latter was a case of a printer who was absent from duty and had come forward disclosing who the printer was. The presumptive liability of the declared Printer was held displaced by the disclosure. The opponent in this case did not rest by disclaiming his liability on the ground of his absence but examined the subeditor Mangilal who admitted that it was he who had published the defamatory matter on the strength of a post-card D/1. Whether in so doing Mangilal acted in good faith i.e. with due care and caution, is not a relevant matter for the purpose of the present case. The presumptive liability of the editor, for these reasons is rightly held to be properly '

displaced.

8. As regards the finding regarding the absence of the editor, the same being one of fact, this Court hearing a petition for leave to appeal against an order of acquittal has to bear in mind the scope of High Court's power of interference in an appeal against acquittal. The view as regards facts and reliability of evidence entertained by a trial judge has to be given due weight and it has further to be borne in mind that the initial Presumption of innocence of the accused is reinforced by his acquittal. I would therefore not consider this to be a fit case for grant of leave sought for.

9. The petition is rejected.

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