

Ashok Kumar Tyagi Vs. State and Another

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Court : Delhi

Decided On : Jan-18-2000

Reported in : 2000IIAD(Delhi)105; 2000CriLJ1188; 84(2000)DLT555; 2000(56)DRJ136

Judge : M.S.A. Siddiqui, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 500

Appeal No. : Crl. R. No. 413/97

Appellant : Ashok Kumar Tyagi

Respondent : State and Another

Advocate for Def. : Mr. K.K. Sareen and ; Mr. Anil Panwar, Advs.

Advocate for Pet/Ap. : Mr. Aman Lekhi and; Mr. Rajan K. Sonikya, Advs

Judgement :

ORDER

M.S.A. Siddiqui, J.

1. After hearing learned counsel for the parties, I propose to dispose of the revision at the stage of admission itself.

2. Briefly stated, the facts giving rise to this revision is that on 6.8.1995 the petitioner lodged a report at the Police Station Nand Nagri regarding theft of his gun on the basis of which FIR No. 369/95 was registered at the said Police Station. During investigation of the case, the respondent was repeatedly called at the Police Station. He, therefore, moved the Court of Sessions for grant of anticipatory bail. However, the bail petition was dismissed on the basis of the report of the Investigating Officer that the respondent was not wanted in any case registered at the Police Station Nand Nagri. Thereafter, the respondent filed a complaint under Section 500 I.P.C. against the petitioner alleging therein that in his report dated 6.8.1995, the petitioner had made a defamatory imputation charging the respondent with having committed theft of his gun and other household goods. On the complaint being filed, process was issued against the petitioner. On 11.1.1997, the learned Magistrate framed the following charge against the petitioner under Section 500 I.P.C.

'That you on or about 6.8.1995 an imputation to the Police of P.S. Nand Nagri against Raj Kumar Tyagi that he had stolen a Gun and other articles from your house which imputation you knowingly or having reason to believe that said imputation would harm the imputation of said Raj Kumar Tyagi thereby committed an offence punishable under Section 500 IPC and within my cognizance'.

3. Learned counsel for the petitioner has strenuously urged that allegations made in the complaint filed by the respondent read along with the FIR No. 369/95 lodged by the petitioner do not constitute any offence and the learned Magistrate has committed an illegality in framing a charge under Section 500 IPC against him. It is undisputed that the FIR No. 369/95 is the foundation of the complaint. Surprisingly, the said FIR, is conspicuous by the absence of any imputation against the respondent. Even his name does not find mention in the FIR. That being so, there was absolutely no justification for charging the petitioner with the commission of the offence punishable under Section 500 IPC. Thus there is no prospect of the case ending in conviction and valuable time of the trial court would be wasted for holding the trial only for the purpose of formally completing the procedure to pronounce its conclusion on a future date. In that view of the matter, allowing the criminal proceedings to continue and thereby forcing the petitioner to face the

ordeal of trial would be an abuse of the process of law.

4. For the foregoing reasons, the revision is allowed and the impugned charge and the proceedings emanating from the complaint filed by the respondent are quashed. The petitioner's bail bonds are discharged.

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