

Sumer Chand Vs. Sulekh Chand

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Court : Delhi

Decided On : Oct-17-1969

Reported in : 1970CriLJ1550; 6(1970)DLT149

Judge : Vyas Dev Misra, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 506

Appeal No. : Criminal Revision Appeal No. 16 of 1968

Appellant : Sumer Chand

Respondent : Sulekh Chand

Advocate for Pet/Ap. : D.R. Kalia and; B.S. Jain, Advs

Judgement :

V.D. Misra, J.

(1) The petitioner has moved this application for expunging certain remarks made by the Magistrate against him while acquitting the respondent-accused.

(2) The material facts may be given in brief. Sumer Chand's sister is married to Sulekh Chand A hire-purchase agreement was executed by Sumer Chand and his sister Kasturi Devi on 29th June, 1965. Later on certain disputes arose and Kasturi Devi claimed the dues under this agreement from Sumer Chand who refused to

pay any amount. It was alleged that on 11th April, 1967, at about 9 A. M. at Mori Gate Sulekh Chand, husband of Kasturi Devi. approached Sumer Chand and threatened to kill him if he would not pay the amount due. Sumer Chand reported the matter to the police and Sulekh Chand was charged under section 506 of the Indian Penal Code. After recording the evidence, the Magistrate acquitted the accused but while doing so he passed adverse remarks on Sumer Chand, complainant. Out of those remarks the petitioner has raised objection with regard to the following:

'(i) and feel that he has concocted this false case against the accused merely because of the dispute over money', and '(ii) I find that the case is entirely a false one instituted merely because the complainant could bring pressure to bear upon the police. This is an unfortunate thing to happen.'

The learned counsel for the petitioner has contended that these remarks are uncalled for and they were not supported by the evidence on the record nor they were necessary to dispose of the matter before the Court. In this connection he has referred to a decision of the Supreme Court in the State of Uttar Pradesh v. Mohd. Naim where it was observed as under :-

'It is a principle of cardinal importance in the administration of justice, that the proper freedom and independence of Judges and Magistrates must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by any body, even by the Supreme Court. At the same time it is equally necessary that in expressing their opinions Judges and Magistrates must be guided by considerations of justice, fair play and restraint. It is not infrequent that sweeping generalisation defeat the very purpose for which they are made. It has been judicially recognised that in the matter of making disparaging remarks against persons or authorities whose conduct comes into consideration before courts of law in cases to be decided by them, it is relevant to consider (a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself; (b) Whether there is evidence on record bearing on that conduct justifying the remarks; and (c) whether it is necessary for the decision of the case as an integral part thereof, to

animadvert on that conduct. It has also been recognised that judicial pronouncements must be judicial in nature and should not normally depart from sobriety, moderation and reserve.'

(3) Applying the criteria laid down by the Supreme Court I find that Sumer Chand had an opportunity of explaining or defending himself when he appeared in the witness box. I have gone through his evidence. During cross-examination he was trying to disown Sulekh Chand as his brother-in law and stated that he knew him by name only. In his report to the police he had stated that Sulekh Chand was a well known had character of Delhi and was a notorious gambler. He has denied the fact that he had reported the matter to the Superintendent of Police also and after reporting to him he had lodged the report with the police station on the following day. Sumer Chand is a Municipal Councillor and also, according to his statement doing social work. The witness to the incident produced by him was his fellow worker. It is in the light of these circumstances that the Court came to the conclusion that Sumer Chand had concocted a false case. It is the duty of the Court while evaluating the evidence of a witness to give a finding whether the witness is trust-worthy or a false one. Every person who comes before the Court as a witness runs the risk of being adjudged as a false witness in case his evidence does not inspire confidence and is otherwise contradictory to the relevant material facts on record. In this particular case, in my opinion, the learned Magistrate was justified in passing the remarks against the petitioner. The record further shows that the petitioner had taken up the matter with the Superintendent of Police to begin with, without approaching the police station straightaway and later on made an attempt in the witness box to deny that he had reported the matter to higher authorities. So the Court came to the conclusion that pressure was brought on the police at the time of instituting the case. I am also of the opinion that these remarks were necessary for the decision of the case and it cannot be said that these remarks were either un-necessary or un-called for in the circumstances of this case.

(4) I, therefore, dismiss this revision petition.