

J.C. Chopra Vs. State

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SooperKanoon Citation : sooperkanoon.com/692120

Court : Delhi

Decided On : Feb-04-1971

Reported in : 1971CriLJ1009

Judge : Pritam Singh Safeer, J.

Appellant : J.C. Chopra

Respondent : State

Judgement :

ORDER

Pritam Singh Safeer, J.

1. The controversy raised is as to whether the Superintendent of Police could have competently filed the complaint Under Section 182 of the Indian Penal Code and would the court be competent to proceed with the same? The circumstances which furnish back ground to the above said controversy are that a report dated 28th October, by Superintendent of Police, Darya Gani, Under Section 380 of the Indian Penal Code to the effect that one Bhag Singh in spite of being asked to defer doing that took away the car in the custody of the petitioner in which certain valuable documents along with cash and ornaments were lying. The report made by the petitioner caused the police to investigate and the ultimate conclusion reached was that the report was false, It is quite intriguing as to why the police resorted to an application for getting the order for cancellation of the case. That

matter, however, had nothing to do with the filing of the complaint by the police Under Section 182 of the Indian Penal Code. The two actions are wide apart and deserve to be seen in that way. Section 182 of the Code is:

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

That provision in the circumstances apparent on the record cannot be mixed up in any way with Section 211 of the Code, which is:

Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

2. Section 211 would be applicable only where any person institutes or causes to be instituted any criminal proceeding with an intent to cause injury to the person whom he may falsely charge with the commission of an offence. The submission

of an application by the police for cancellation of the case on the conclusion of the investigation revealing that the report lodged by the present petitioner was false was not an action performed within the purview of Section 211 of the Indian Penal Code.

3. If a reference is made to Section 195 of the Code of Criminal Procedure, then Clause (a) thereof says:

(1) No court shall take cognizance(a) of any offence punishable Under Sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;

It is obvious that if an offence is punishable Under Sections 172 to 188, of the Indian Penal Code then the complaint has to meet the obligation that it must be made in writing by the public servant concerned. The complaint made against the petitioner was Under Section 182 of the Indian Penal Code and was in writing made by the Superintendent of Police concerned. It in every way. fulfilled the obligations both of Section 182 of the Indian Penal Code as well as of Clause (a) of Sub-section (1) of Section 195 of the said Code.

4. With the view expressed above I do not find any merit in this revision petition. This is dismissed.