

Abraham Vs. State and anr.

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Court : Kerala

Decided On : Jan-18-1960

Reported in : AIR1960Ker236

Judge : Anna Chandy, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 504

Appeal No. : Criminal Revn. Petn. No. 66 of 1959

Appellant : Abraham

Respondent : State and anr.

Advocate for Def. : Public Prosecutor (for No. 1),; K.P. Abraham,; E.M. Jaco

Advocate for Pet/Ap. : T.K. Narayana Pillai, Adv.

Disposition : Revision allowed

Judgement :

ORDER

Anna Chandy, J.

1. This Revision Petition is tiled by the accused in C. C. No. 929 of 1959 of the Sub-Magistrate's Court. Kottayam. The Sub-Magistrate convicted the petitioner for offences punishable under Sections 447 and 504, I. P. C., and sentenced him to

pay a fine of Rs. 25/- under each count. The conviction under Sections 447 was quashed in the appeal by the District Magistrate and the conviction under Sections 504, upheld,

2. The accused is a jeweller at Thirunakkara, Kottayam and the complainant, the Resident Engineer of the Kottayam Electricity Agency. The current charges due from the accused to the Electric Co. amounted to more than Rs. 1000/- on 16-11-1957. The amount was not paid in spite of repeated demands. The complainant therefore took steps to stop the supply of current. He sent his men to the accused's shop to remove the fuse placed inside the building. The men had to return due to the accused's resistance. On 16-11-1957 at about 10-30 A. M. they cut the aerial fuse outside the shop and disconnected the current supply. At about 2 P. M. the complainant went to the accused's shop and told him that his conduct in having obstructed the removal of the indoor fuse was not proper. The prosecution case is that at about 4-30 P. M. the same day the accused trespassed into the complainant's office attached to the power house with the object of insulting and annoying him and actually insulted him by the use of obscene language. The accused is alleged to have told the complainant 'Neither your master nor you nor your father will be able to remove the fuse from my building. All this is mere 'foul gas' to me'.

3 Though the Sub-Magistrate found that the accused had gone over to the complainant's office with the object of insulting him the learned District Magistrate has on a detailed analysis of the evidence, held that it is reasonable to think that the accused visited P. W. .1. in, the evening for the settlement of the dispute between himself and the supply agents regarding the payment of arrears of current charges. He therefore set aside the conviction for trespass. The learned District. Magistrate also found that there was a conversation, between the accused and the complainant for eight or ten minutes about the payment of the arrears and due to the unpleasant atmosphere in which the talks were held the accused was provoked and finding that he could not carry the conversation he uttered the above-mentioned words and left the place.

4. The only point urged before me by Shri T. K. Narayana Pillai, advocate for the revision petitioner is that in the face of the above finding by the learned District Magistrate the conviction under Sections 504 is unsustainable. According to him that finding would justify the inference that it was not a case of intentional insult, much less insult that was intended or known to be likely to provoke a breach of the public peace or the commission of any other offence. In short he contends that the elements necessary to sustain a conviction under Sections 504 are not made out.

(5) I am of the view that the contention has to be upheld. Several decisions were cited by the learned counsel in support of the position that it is not every insult that could be classed as 'intentional insult' -coming within the purview of Sections 504. The authorities on the point are clear that mere breach of good manners does not constitute an offence under Sections 504. In the case *Philip Rangel v. Emperor*, AIR 1932 Bom 193 a Bench of the Bombay High Court had to consider the question whether the words 'You damn, bloody bastards and cads' uttered by the accused while he was leaving a share-holders' meeting would amount to an intentional insult. It was held by Chief Justice Beaumont that:

'When the charge is an insult by words, the words must amount to something more than what in English law is called 'mere vulgar abuse'. If abusive language is used in such circumstances that the court comes to the conclusion that it cannot possibly have been intended, and cannot have been understood by those to whom it was addressed to have been intended, to be taken literally, the language cannot be held to amount to an intentional insult.'

6. In the present case according to the finding of the learned District Magistrate the alleged . insulting words came to be uttered towards the end of a conversation between the complainant and the accused under circumstances which made it impossible for the accused to continue the conversation and immediately after uttering these words the accused left the place.

7. An analysis of the accused's words would show that the first portion of his remark is mere tall-talk. Though couched in uncultured language, the remark seems to be nothing more than a pompous boast that no one in this wide world could enter the accused's shop without his permission. The latter portion of the

sentence comparing the attempts made by the complainant to remove the fuse to 'foul gas' would at worst amount to vulgarity indicating want of good manners on the part of the accused, but could hardly, be characterised as an insult. Even if the words used by the accused can be considered to be insulting in the sense that they were derogatory to the dignity of the person to whom they were addressed, the circumstances under which they were uttered indicate that the accused's intention was nothing more than to strike a note on which to make a triumphant exit or to have the satisfaction of having had the last word in a conversation that was not going to his liking.

8. The further question is whether the accused intended or knew it to be likely that the provocation given by the insult would cause the complainant to break the public peace or commit some other offence. The complainant no doubt has given evidence that on hearing the accused's words he was provoked to resort to some action which he refrained from doing as he wanted to avoid a breach of the peace. However what is material is not the reaction of the complainant which might vary according to the sensitiveness of the individual insulted but the intention of the offender to provoke or his knowledge that he is likely to provoke the person insulted to commit an offence. In this case it cannot be held that the accused had the necessary intention. Neither can he be fixed with the knowledge that the insult was likely to provoke the complainant to commit an offence, because the circumstances under which the alleged insulting language was used and the nature of the remark were such that the reaction reasonably to be expected from any ordinary man and more so from a man of culture and learning like the complainant, can be nothing stronger than a retort 'Talk decently or clear out of my room'.

9. In any view it cannot be held that all the ingredients necessary to constitute an offence under Sections 504 have been made out. The conviction therefore cannot be sustained.

10. In the result the Revision Petition is allowed and the order of conviction and sentence passed against the Revision Petitioner is vacated.

