

M. Subbiah Vs. T. Ramacharlu

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Court : Chennai

Decided On : Jan-19-1939

Reported in : AIR1939Mad604; (1939)2MLJ117

Appellant : M. Subbiah

Respondent : T. Ramacharlu

Judgement :

ORDER

Pandrang Row, J.

1. This is a simple case in which the President of a Panchayat Court was complained against in respect of certain acts committed by him while he was in his own Court dealing with a case in which the complainant in the case was a party.

2. The complaint petition itself says that when the President, that is, the petitioner in the present case, was about to write the Court's order dismissing the complainant's petition, the complainant objected to the dictation by the clerk of the President of the order to be pronounced in the matter and asked the President not to allow the clerk to dictate the judgment as the Court was bound in law to write its own judgment and that it was on account of this objection taken by the complainant that the President of the Court is said to have got up from his seat abusing the complainant and slapped him on the cheek twice. It is also alleged that when the complainant warned the President that he had no business to

assault him in open Court, the President unlaced his shoe, took it up in his hand, and raised it saying, 'I will beat you with my shoe'. No actual beating with the shoe followed because, some persons are said to have intervened.

3. The question is whether in respect of these acts, sanction is required under Section 197 of the Criminal Procedure Code which says that when any person who is a Judge within the meaning of Section 19 of the Indian Penal Code is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government. In this case no such sanction has been obtained. The Joint Magistrate has nevertheless taken cognizance of the case on the ground that as the objection was raised by the complainant in the case to the procedure adopted by the Court in a perfectly orderly and lawful manner, it was the duty of the Court to answer that objection in an equally orderly and lawful manner and that the alleged use of abusive language and beating and the attempt to beat with a shoe cannot be said to come within the scope of the President's official duties.

4. The petitioner was acting throughout till the very minute when the alleged offences were committed in his official capacity. It cannot be said that he immediately ceased to be acting in his official capacity, the moment his lips began to utter abusive words. The provocation, so to speak, for the acts complained of had an immediate bearing on the official duties of the accused. It was because objection was taken to something that was being done by him in his official capacity as a Judge that the accused is said to have employed abuse and indulged in assault. These are acts which must be deemed to have been done when he purported to act in discharge of his official duties, though it is not part of his official duties to abuse or assault. If this was part of such official duties, there can be no offence. The question of obtaining the Government sanction arises only where the officer while acting in his official capacity steps beyond the limits of his authority or jurisdiction and does something which constitutes an offence. In such cases it has been enacted as a measure of protection against frivolous or vexatious complaints that complaints against certain officers should not be entertained without the sanction of Government. The section is one meant for

protection of the Judge concerned and to interpret the words 'in the discharge of his official duty' in a strict manner so as to include only acts done strictly within the scope of his authority or jurisdiction would render any protection unnecessary, because an act which is completely within the scope of one's official duties can never be an offence and there would be no necessity to apply the provisions of the section or to afford any protection in respect of such an act. It is only where offences are committed by a Judge that the necessity for protection comes in and the protection is limited to cases where the offences are committed while the Judge purports to act in his official capacity though undoubtedly he has outstepped the limits of his duties. In this case the circumstances clearly show that throughout, the President was acting as a Judge and therefore the protection which is meant to be given to persons in his position must be available to him.

5. The petition is therefore allowed and the proceedings of the Joint Magistrate are quashed for want of sanction of the Local Government.

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