

Patil Subba Reddi Vs. Emperor

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Court : Chennai

Decided On : Oct-02-1935

Reported in : AIR1936Mad160

Appellant : Patil Subba Reddi

Respondent : Emperor

Judgement :

King, J.

1. The appellant in this case was the Village Magistrate of Pedda Yekkalur. He has been convicted under Section 211, Penal Code, in respect of the fact that in a report by him to a police officer on 4th February 1934 he has falsely included in the list of accused who committed dacoity at his house the name of his inveterate enemy Bala Rangayya. I need not discuss the merits of the case, whether Bala Rangayya was or was not present or whether the accused knew that he was not present and therefore made a false statement in the report which he gave to the police because the conviction of the appellant has in my opinion to be set aside on another ground of law.

2. Under Section 211, I.P.C., the person who institutes or causes to be instituted any criminal proceeding against any person with intent to cause injury to him and knowing that there is no lawful or just ground for such proceeding is guilty of an offence. In the present case, what is alleged for the appellant is that the person

who instituted this criminal proceeding was not the accused but his mother. The evidence of P.W. 9, the head constable, is of great importance in this connection. What he says is this:

At 5 p.m. on 4th February 1934, the mother of this accused came to me and told me that paddy was spread and dried in front of the accused's house. When Bala Rangayya and men belonging to his party came and quarrelled near the paddy, there was rioting or fighting (in Telugu) going on between them and the accused and his men.

3. It is argued by the learned Public Prosecutor that this information does not amount to a complaint of any cognizable offence, but it seems to me that this is a clear complaint of rioting on the part of Bala Rangayya and his men. It is true that this complaint was not recorded in writing by the head constable as it ought to have been under Section 154, Criminal P.C. but the fact remains that a complaint of a cognizable offence had been made by a person other than the accused. It must therefore follow that any statement made to the Police Officer by the accused after that complaint had been received, however false it might have been, is a statement made in police investigation and cannot be made the foundation of a prosecution under Section 211, because it is not this statement which set the law in motion nor can the prosecution be said to have been instituted by it. A clear authority for this is found in *In re Krishna Baipadithaya* : (1910)20MLJ132 . The learned Sessions Judge however has rejected this argument on the ground that the information given by the appellant's mother was indefinite, and he relies on a ruling reported in *Public Prosecutor v. Chidambaram* : (1928)55MLJ231 which he interprets as laying down the law as follows:

Where indefinite information given by any person is not reduced to writing and a Police Officer goes to get correct information regarding the truth of an incident reported, investigation does not commence till he gets the information and begins to act on it.

4. An examination of this case will however show that the facts dealt with therein are quite distinct from our present case. In that case, the so-called indefinite information was contained in a telegram, and it was pointed out by the learned

Judges who decided the case that there is no guarantee of the authenticity of a telegram and that no Police Officer can regard as the complaint of a cognisable offence, information the authenticity of which he cannot be certain of. Therefore until in that case the Police Officer in question had gone and found that the sending of the telegram was confirmed by the oral statement made by the same complainant, the investigation was held not to have begun. It does not seem to me that that case can possibly be used as an authority against the appellant in the present case. The appellant therefore must be held not guilty under Section 211, I.P.C. This appeal is allowed. His conviction is set aside and he is directed to be set unconditionally at liberty.

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