

In Re: Ramakrishna Pillai

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Court : Chennai

Decided On : Oct-13-1970

Reported in : (1971)1MLJ496

Appellant : In Re: Ramakrishna Pillai

Judgement :

ORDER

B.S. Somasundaram, J.

1. The petitioner herein is the owner of a house in T.S. No. 2343 in Thanjavur municipal limits. There was a tax arrear of Rs. 8056 for four and a half years from 1966 till 1968. On 31st March, 1968, P.W. 1, the Bill Collector, went to his house with the distraint warrant Exhibit P-4 and demanded the tax. The petitioner told him that the tax was payable by his sons. There was an exchange of words. P.W. 2 directed the peon P.W. 4 to get the warrant book which he had kept on a cycle, which was outside. P.W. 4 went out to bring the warrant book. The petitioner followed him, brought the cycle inside, closed the second entrance door of the house, bolted it from within and stood at the entrance and thereby prevented P.W. 4 from entering in. P.Ws. 1 and 2 who were inside were not able to go out. When P.W. 1 attempted to open the door, the petitioner pushed him and the bill book fell down. Thereupon pushing the petitioner aside, P.Ws. 1 and 2 got out of the house and informed the office. P.W. 3, the Revenue Officer, P.W. 4, the Revenue Inspector, and P.W. 9, the Ward Councillor, came to the spot. Phone message

was given to the station and a police constable appeared and took the petitioner with him. Exhibit P-1 report was then forwarded by the Commissioner with the letter Exhibit P-2. Charge-sheet was filed against the petitioner under Sections 342, 186, 353 and 506 of the Indian Penal Code. The Special Additional First-Class Magistrate framed charges only for offences under Sections 342, 353 and 506 Part II. When questioned in Court, the petitioner denied the acts of wrongful confinement and user of force attributed to him and stated that when he asked them to come to his house in West Main Street, the municipal staff created a row and caused him to be taken to the police station. D.Ws. 1 to 4 were examined by him for proving his version. Believing the evidence adduced on the side of the prosecution, the learned Special Additional First Class Magistrate, convicted the petitioner under Sections 342 and 353 of the Indian Penal Code and sentenced him under each section, to pay a fine of Rs. 100. On appeal, this was affirmed by the Sessions Judge at Thanjavur. The correctness of this decision is now canvassed in this revision.

2. On behalf of the petitioner, it is urged that for the offence under Section 186 of the Indian Penal Code, a complaint of the concerned public servant is necessary as per Section 195 of the Criminal Procedure Code and since there is no such complaint in this case, the entire proceedings are vitiated. Section 195 of the Criminal Procedure Code, provides that without the complaint of the public servant concerned, no prosecution for an offence under Section 186 can be taken cognizance of. It does not further provide that if in the course of the commission of the offence, other distinct offences are committed, the Magistrate is debarred from taking cognizance in respect of those offences as well. The learned Magistrate has not taken cognizance of any offence under Section 186, but has taken cognizance only in respect of offences under Sections 342, 353 and 506, Part II, Indian Penal Code. The conviction is also only for offences under Sections 342 and 353, Indian Penal Code. Therefore, there is no substance in the contention now advanced on behalf of the petitioner.

3. Both the Courts have believed the evidence given by the witnesses 'examined' on the side of the prosecution and convicted the petitioner for the offences under Section 342 and 353, Indian Penal Code, and it cannot be said that they have in

any way erred in the appreciation of the evidence.

4. The conviction is correct. The sentence is not excessive. Both are confirmed. The revision fails and the same is dismissed.

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