

K. Ranmchandra Mudaliar Vs. Eswara Devacayan

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Court : Chennai

Decided On : Apr-06-1973

Reported in : (1975)1MLJ19

Appellant : K. Ranmchandra Mudaliar

Respondent : Eswara Devacayan

Judgement :

N.S. Ramaswami, J.

1. This is an appeal against acquittal of the first accused in C.C. No. 1818 of 1970. On the whole there were six accused who were charged with the offences of rioting and mischief by the appellant before me as complainant before the trial Magistrate. The learned trial Magistrate acquitted accused 2 to 6 holding that the facts alleged by the appellant (complainant) were not true but convicted the first accused only of the offence under Section 426, Indian Penal Code. On appeal by the first accused, the learned District Magistrate (Judicial) Cuddalore acquitted him allowing the appeal.

2. The appellant was the manager of an elementary school at Thirunaraiyur village. The first accused is not a person connected with that school but he is the President of the Panchayat of that place. 2nd accused is the Headmaster of the said school and accused 3 to 6 are some of the teachers in that school. The complaint of the appellant is that because he punished the 2nd accused and

reverted Mm as teacher, all the accused formed into an unlawful assembly and closed the school and thereby caused loss to the appellant in the shape of Government grants. It is stated that because the school had been closed by the accused the appellant lost the Government grant which he would have otherwise received. The complainant alleged that all the six accused actually took part in locking the main door of the school. He ascribed part to each of the six accused in locking that door. The learned trial Magistrate held that the story of the appellant so ascribing part to each of the six accused in locking one particular door is too artificial for acceptance and therefore acquitted accused 2 to 6. But the first accused had admitted that he did lock the door; He stated that he so locked under certain circumstances. The learned trial Magistrate held that that act of the first accused in locking the door which ultimately resulted in the appellant not receiving the Government grant amounted to an offence under Section 426, Indian Penal Code. The learned Appellate Magistrate held that the first accused had so locked the door of the school only bond fide and in good faith and therefore no offence of mischief had been committed.

3. I am of the view that the question whether the first accused acted in good faith or not need not even be considered, for I am quite clear that no offence of mischief can be made out even if the entire allegations of the appellant are accepted to be true. Section 425, Indian Penal Code defines the word ' mischief' and it is seen therefrom that a person would be guilty of the offence of mischief if he caused destruction of any property or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, etc., with intent to cause or knowing that he is likely to cause thereby wrongful loss or damage to the public or to any person. Assuming in this case that the closing of the school by locking the door resulted in wrongful loss to the appellant in that he was unable to receive the Government grant during the period when the school Was found locked and further assuming that the first accused had intended to cause or had knowledge that he is likely to cause such wrongful loss or damage to the appellant in so locking the door, still the question is whether the first accused caused destruction of any property or such change in any property as destroys or diminishes its value, etc. In the present case, undoubtedly, there is no question of destruction of any property, for the allegation is that the first accused locked the door of, the school

building. I am also not able to accept the contention of the learned Counsel that in so locking the door of the school building the first accused made any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously ' as contemplated under Section 425, Indian Penal Code. In this view the acquittal of the 1st accused is perfectly correct and the appeal is dismissed.

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