

Dr.K.Dhanraju Vs. the State

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Court : Andhra Pradesh

Decided On : Jun-28-2010

Judge : Sri Gopala Krishna Tamada, J.

Acts : Indian Penal Code (IPC) - Sections 197, 338 ; Cr.P.C - section 482

Appeal No. : C.R.P.NO.6944 OF 2007

Appellant : Dr.K.Dhanraju

Respondent : The State

Advocate for Pet/Ap. : Sri N. Ramchander Rao, Adv.

Judgement :

1.The petitioner who is a doctor approached this court and filed the present petition under section 482 of Cr.P.C. to quash the proceedings in C.C.No.555 of 2007 on the file of the court of the Special Judicial Magistrate of I Class (Prohibition & Excise) Mahaboobnagar, which was taken on file for the offence punishable under section 197 of IPC.

2. Brief facts that led to the filing of the said complaint are as follows:

3. There was an accident on 11.10.2005 and the driver of the crime vehicle involved in the said accident i.e. DCM bearing No.AP 9 U 6386 was the accused. On the basis of a complaint given by P.W.1 in the said case stating that one H.B.Vasudeva Chari, who was examined as P.W.3 in the said case was injured in

the accident, a case in Cr.No.85 of 2005 was registered against the said driver for the offence punishable under section 338 of IPC. After investigation, the police filed charge sheet also and the same was taken on file by the learned Special Judicial Magistrate of I Class for trial of cases under Prohibition and Excise as C.C.No.23 of 2006. As stated above, the complainant was examined as P.W.1, Pancha witness was examined as P.W.2, the injured was examined as P.W.3, the petitioner who treated the injured was examined as P.W.4 and the investigating officer was examined as P.W.5. Exs.P.1 to P.4 were marked on behalf of the prosecution during the course of trial. Having recorded the said evidence and also looking at Ex.P.1 report, the trial court came to the conclusion that the said accident was solely on account of the rash and negligent driving on the part of the driver of the crime vehicle and accordingly found him guilty of the offence punishable under section 338 of IPC and sentenced him to suffer simple imprisonment for a period of six months and also to pay a fine of Rs.500/-, in default, to suffer simple imprisonment for three months. The accused in the case questioned the said judgment dated 26.03.2007 and the same was numbered as Crl.A.No.47 of 2007. The learned I Additional Sessions Judge, Mahaboobnagar while allowing the said appeal and setting aside the said judgment of the trial court acquitted the accused. But, however, taking the view that the petitioner who was a doctor working at the relevant point of time in P.H.C, Shadnagar gave false evidence, directed the trial court to initiate proceedings against the petitioner for the offence punishable under section 197 of I.P.C. In the light of the said observations, the learned Special Judicial Magistrate of I Class for Prohibition and Excise, Mahaboobnagar had registered a case in C.C.No.555 of 2007 against the petitioner.

4 Heard both sides.

5 .Apparently, the alleged offence took place on 11.10.2005. In the normal circumstances, the victim will be taken to the hospital at the earliest point of time and the doctor will treat him immediately. If that fact is taken into consideration, the injured, who was examined as P.W.3, must have been examined by the petitioner on 12.10.2005 itself and the wound certificate shall be dated 12.10.2005. However, from a perusal of the medical certificate filed in the material papers the

date on it is not clear. Normally the doctors who examine the injured or patients give evidence on the basis of the medical certificates with regard to the date and time. It cannot be expected from the medical officers to remember the date and time and speak to the said effect. May be it is true that the injured who was examined as P.W.3 was examined on 12.10.2005, but it cannot be expected from the medical officer that he shall depose by remembering the date of the incident and also the date of the wound certificate. As stated supra, his evidence would be solely on the basis of the wound certificate. Here is a case where the alleged offence took place on 11.10.2005 and the doctor examined the injured P.W.3 on 12.10.2005 and as stated supra in the medical certificate there is no clarity with regard to the date of examination of the injured. Simply because the doctor, during the course of evidence, has stated that he treated the injured-P.W.3 on 18.10.2005, it cannot be said that the doctor has intentionally given false evidence. During the course of examination in chief he has categorically stated that "I might have wrongly mentioned in the wound certificate the date of examination as 18.10.2005 instead of 12.10.2005". This clearly indicates that the injured i.e. P.W.3 was examined only on 12.10.2005 but not on 18.10.2005. Further the doctor was deposing in the court on the basis of the wound certificate and the date as observed above is not clear in the said wound certificate. Hence in my considered view, there is no need to initiate proceedings under section 197 of IPC. It is brought to the notice of this court by the learned Additional Public Prosecutor that the petitioner retired from service in the year 2009 itself.

6. In the light of the above discussion and in order to secure the ends of justice, this court is of the view that there is no need to continue the said proceedings initiated against the petitioner since the same is nothing but abuse of process of the court.

7. Accordingly this petition is allowed and the proceedings in C.C.No.555 of 2007 on the file of the court of the Judicial Magistrate of I Class (Prohibition & Excise) Mahaboobnagar are hereby quashed.