

Ankur Chadha Vs. Ritu Chadha

Ankur Chadha Vs. Ritu Chadha

SooperKanoon Citation : sooperkanoon.com/910063

Court : Delhi

Decided On : Feb-07-2011

Judge : Shiv Narayan Dhingra, J.

Acts : Code Of Criminal Procedure (CRPC) - Sections 156(3), 200, 202; Indian Penal Code (IPC) - Sections 191, 193, 195, 196, 199, 200

Appeal No. : CRL. M.C. 3323 of 2010

Appellant : Ankur Chadha

Respondent : Ritu Chadha

Advocate for Def. : MR. Maninder Jeet Singh, Adv.

Advocate for Pet/Ap. : Mr. Jinendra Jain, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the reporter or not?

3. Whether judgment should be reported in Digest?

1. By this petition, the petitioner has assailed order dated 6th October, 2010 passed by the revision court dismissing the revision of the petitioner.

2. Brief facts relevant for the purpose of deciding this petition are that petitioner moved an application under Section 156(3) of Cr. P.C. for registration of an FIR u/s 420, 425, 465, 468, 469, 471 and 120-B IPC read with Section 191, 193, 195, 196, 199 and 200 of IPC against the respondent. The occasion for making this complaint was that the respondent filed a maintenance application against the petitioner and along with the maintenance application, she filed a letter of the company of the petitioner showing that the salary of the petitioner was more than Rs. 5.00 lakh per annum. The petitioner contended that the letter filed by respondent was a forged letter and the original appointment letter was produced by the petitioner before the Court showing that his salary was Rs. 4.00 lakh per annum. The petitioner, therefore, requested that, for filing a forged appointment letter in the court during judicial proceedings to prejudice the mind of the Court, an FIR should be registered against the respondent under various sections of IPC as enumerated above. The learned MM considered that since the entire evidence was within the knowledge of the petitioner and was available on the judicial file, no police investigation was needed and directed that the petitioner should lead evidence treating the application as a complaint under Section 200 Cr.P.C.

3. A person can move Court to report about commission of offence under Section 156 Cr. P.C. when his effort to get an FIR registered with the police fails. In the present case, the petitioner did not approach police for registration of FIR. He directly made an application to the Court under Section 156 Cr.P.C.. It was discretion of the Court to send the application for registration of an FIR or to treat the application as a complaint and record evidence itself under Section 202 Cr. P.C. Normally, where the evidence is not within the control of the complainant and further investigation is required to be done by the police, the proper course is to refer the matter for investigation by the police, since the Court does not have paraphernalia to dig out the evidence from the accused persons and get it produced in the court. However, where the entire evidence is within the control of the complainant, the Court, instead of getting an FIR registered against the accused, can ask the complainant to produce the evidence in the Court and after appreciating the evidence can summon the accused. In fact, pre summoning evidence amounts to an inquiry being conducted by the court into the commission of the offence and if after the inquiry, the court is satisfied that offence had been

committee, the Court has to summon the accused. The purpose of filing an FIR is not to see that accused must be arrested, the purpose of filing an FIR is that proper inquiry/investigation should be made. The petitioner cannot object to the inquiry/investigation being made by the Magistrate himself instead of being made by the police.

I find no infirmity in the order of the learned MM or learned Sessions Judge. This petition is hereby dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com