

(1950) 05 AHC CK 0022

Allahabad High Court (Lucknow Bench)

Case No: Criminal Revision No. 188 of 1949

Manna

APPELLANT

Vs

Ram Ghulam and  
Another

RESPONDENT

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Date of Decision: May 15, 1950

Acts Referred:

- Penal Code, 1860 (IPC) - Section 499

Citation: AIR 1950 All 619

Hon'ble Judges: Misra, J

Bench: Single Bench

Advocate: H.K. Ghose, for the Appellant; N. Banerji, for Opposite Party Nos. 1 and 2, for the Respondent

Final Decision: Dismissed

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### Judgement

@JUDGMENTTAG-ORDER

Misra, J.

This criminal Revision is directed against the appellate order of the learned Sessions Judge of Unnao, setting aside the conviction and sentence of the opposite parties Ram Ghulam and Ram Charan and acquitting them of the charge u/s 504, Penal Code. The facts which were found proved by the learned Sessions Judge were as follows : (1) That Manna, complainant, was ex-communicated from the caste by a panchayat held on 8th March 1949; (2) That there was a caste dinner at 10 P. M. on the evening of the same day at the house of Manohar Teli wherein Manna also sat down to dine along with others ; and (3) That Ram Ghulam and Ram Charan asserted that Manna could not be allowed to dine with the other members of the caste in view of his ex-communication by the panchayat.

2. The complainant tried to prove that the accused physically pushed him out of the caste dinner but this fact was not established to the satisfaction of the learned

Sessions Judge. The learned Judge took the view that the case was covered by Excepts. 9 and 10 to Section 499, Penal Code, and he, therefore, set aside the conviction and sentence of fine amounting to Rs. 60/- against each of the accused persons and acquitted them of the charge. The complainant has come up in revision.

3. The contention which has been urged on behalf of the applicant is that the accused did not have any duty caste on them to make the imputation which they did and that if they desired not to interdine with the complainant they could have either left the dinner or have taken it separately.

4. The principle is well established that a communication made bona fide upon a matter in which the party communicating has an interest or in reference to which he has a duty is privileged if it is made to a person having a corresponding interest and duty even though it contains incriminatory matter which would otherwise be slanderous and actionable (see the observations of Lord Campbell C. J., in *Harrison v. Bush* (1855) 119 ER 509 : 5 El. & Bl. 342. A caste resolution published to the members of the caste in the discharge of a social duty would normally fall within the rule since the member who makes the publication is bound both in his interest and in the interest of his caste to publish it for saving himself and the caste from the defilement which would take place by acting against the verdict of ex-communication. The statement would, therefore, definitely fall within Excep. 9. The High Court as a rule does not interfere with an order of acquittal at the instance of a private party except where such interference is demanded in the interests of justice. I can find no justification whatever for interfering with the decision of the learned Sessions Judge.

5. The application is, therefore, dismissed.