
Develle Venkateswarlu Vs State of A.P.

Criminal Petition No. 640 of 2000

Court: Allahabad High Court

Date of Decision: Feb. 28, 2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) &” Section 482#Penal Code, 1860 (IPC) &” Section 415, 417, 419, 420, 477

Citation: (2000) CriLJ 2929

Hon'ble Judges: Vaman Rao, J

Bench: Single Bench

Advocate: Milind G. Gokhale, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Vaman Rao J.

1. This petition u/s 482, Cr.P.C. seeks quashing of the order dated 11th October, 1999 passed by the learned Metropolitan Sessions Judge,

Vijayawada in Crl. Revision Petition No. 51 of 1999 which was directed against the order passed by the VIII Metropolitan Magistrate in Crl.

M.P. No. 1159 of 1999 in C. C. No. 8 of 1999 under which the learned Magistrate dismissed the petition filed on behalf of the petitioner-accused

to discharge him in respect of the charges under Sections 419, 420 and 477 of Indian Penal Code.

21. The facts constituting the offences alleged against the petitioner as scanned from the order of the learned Metropolitan Magistrate are as

follows :

(It is pertinent to mention here that a copy of the charge sheet has not been filed with the petition.) It is alleged that the petitioner approached the

attendant of the Railway retiring room at Vijayawada for a room impersonating himself as Assistant Commercial Manager. On the representation

of the petitioner Room No. 2 was allotted to him and the petitioner-accused occupied the said room. Subsequently, the Travelling Accounts

Inspector, Vijayawada on verification of records found that the token number furnished by the accused was a fake one. After this verification and

having been satisfied that the accused cheated the attendant of the Railway retiring room, he informed the C.T.I. All these Officers approached the

accused and demanded him to show his identity and insisted the accused to show the Metal token mentioned in the register. The accused then tore

away the page from the register. All these officials then caught hold of the accused and handed him over to the police with a report. On the basis of

this report, a case was registered for the offences mentioned above. The learned Metropolitan Sessions Judge, it is seen, has found that the

ingredients of offence u/s 477, I.P.C. were not made out inasmuch as the document which is alleged to have been torn away by the accused was

not a Will or a valuable security as mentioned in Section 477, I.P.C. The correctness of this part of the finding of the learned Metropolitan

Sessions Judge, however, is not challenged here on behalf of the prosecution.

3. It is now urged by the learned Counsel for the petitioner that even in respect of the offences u/s 419 and 420, I.P.C. the facts alleged against the

accused do not satisfy the ingredients of the offences under these provisions.

4. The allegations against the accused are:

(1) that he made a representation to the Railway retiring room attendant that he was an Assistant Commercial Manager of the Railways and to

buttress his claim he has also given his identity token number, which was mentioned in the relevant register at the Railway retiring room.

(2) that on such representation, the attendant at the Railway retiring room allotted a room to the accused and the accused availed the allotment and

occupied that room, Later, it appears, on being questioned the accused was unable to produce the metal token and the officials concerned were

satisfied that the accused had impersonated the Railway officials and succeeded in getting a room allotted.

5. Section 415, I.P.C. defines cheating. The essential ingredients for an offence of cheating as defined in the Section may be enumerated as follows

:

(1) That there was deception practised by the accused.

(2) By such deception, the accused should have fraudulently and dishonestly induced the person so deceived. (a) to deliver any property to any

person, or, (b) to consent that any person shall retain any property, or (c) accused intentionally induced any person so deceived to do or omit to

do anything which he would not do or omit if he were not so deceived; and

(3) which act or omission causes or is likely to cause damages or harm to that person in body, mind, reputation or property.

In this case the allegations against the accused are that the accused made a representation to the Railway retiring room attendant that he was an

Assistant Commercial Manager of the Railways. This, prima facie, amounts to practising deceit inasmuch as the accused can be presumed to have

made such representation knowing that it was false. The fact also shows that he practised the deceit for fraudulently or dishonestly inducing the

attendant at the Railway retiring room to allot him a room. The facts also show that in fact the attendant on the basis of such a representation by the

accused allotted him a room. This amounts to saying that he has done something, (allotted the room) which he would not have done, but for such

representation.

6. Considering these ingredients of offence u/s 415, I.P.C. the facts as alleged against the accused and as stated above would show that it is not a

case where allegations do not make out an offence as defined u/s 415, I.P.C. at all. However, it is possible that the offence may not fall u/s 420,

I.P.C. as there was no delivery of any property or valuable security by the person to whom representation was made. But, at any rate, it may

constitute an offence u/s 417, I.P.C. In regard to the offence u/s 419, I.P.C. the facts as alleged against the accused go to show that he

impersonated himself as an Assistant Commercial Manager who is a public servant. Thus, it cannot be said that the offence u/s 419, I.P.C. has not

been made out on a mere reading of the allegations against the accused.

7. It may, however, be pointed out that a copy of charge sheet and the statements of witnesses and other documents relied upon by the

prosecution are not before this Court now. Considering the totality of the circumstances, it is not a case where this Court can exercise its inherent

powers u/s 482, Cr.P.C. for quashing the proceedings.

8. Under these circumstances, this petition is fit to be and is hereby dismissed.