
Shailendra Chaudhary Vs Smt. Seema Singh

Application U/s 378 No. - 8 of 2017

Court: ALLAHABAD HIGH COURT

Date of Decision: April 7, 2017

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) - Section 378(4)#Penal Code, 1860 (IPC) - Section 500, Section 501, Section 502

Citation: (2017) 99 ACrC 608 : (2017) 3 ALLJ 478

Hon'ble Judges: Harsh Kumar, J.

Bench: Single Bench

Advocate: Meenakshi Singh, Advocate, for the Applicant; G.A, for the Opposite Parties

Final Decision: Dismissed

Judgement

Harsh Kumar, J.â€”Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The application for leave to appeal under section 378 (4) Cr.P.C. has been moved by the complainant-appellant against the judgment and order

of acquittal dated 21.11.2016 passed by A.C.J.M., Court No.1, Meerut, acquitting the sole accused-respondent no.1 Smt. Seema Singh from the

charges of offences under sections 500, 501 and 502 IPC.

3. The complainant's case in brief is that the complainant is Vice Chairman of Bulandshahr Development Authority since 2012 and is a Senior

P.C.S. officer while his two sons-in-law are I.A.S. officers; that the complainant carries a good reputation, but on 8.6.2012, Smt. Seema Singh

given a type written report at Police Station Civil Lines, Meerut on the basis of which case crime no.351 of 2012 was registered and F.I.R. under

sections 323, 504, 506, 306, 511 IPC was lodged against him with the allegations that her husband was harassed by complainant-appellant and

others and was compelled to commit suicide; that about the above F.I.R., a news item was published in local daily newspaper ""Amar Ujala"" of

Meerut dated 11.6.2012, to the effect that there are charges of usurping property worth crores of rupees by complainant-appellant Shailendra and

his partner Dheer Singh and, since the news items printed and published in news paper were given under the instructions of accused-respondent

Smt. Seema Singh, defamation of complainant-appellant was caused by accused respondent; that in case crime no.351 of 2012, after investigation,

final report was submitted on 8.7.2012, which has been accepted by the Court; that by lodging of F.I.R. and publication in the newspaper

defamation of complainant has been caused and it considerably effected and undermined the position and reputation of complainant in the eyes of

right thinking persons; that notice was sent to accused respondent on 18.7.2013 and complaint is being filed on 23.10.2013.

4. Learned counsel for the complainant-appellant contended that the F.I.R. in case crime no.351 of 2012 was lodged by accused-respondent with

absolutely false and concocted facts, after suicidal death of her husband on 8.6.2012 due to personal reasons; that in F.I.R. allegations were made

to the effect that the complainant-appellant was in partnership with her husband Vinod Chaudhary deceased, and Dheer Singh, in the Vidyadeep

Institute of Management College and Vidyadeep Global School, Village Bhaisa, P.S. Mawana, District Meerut which college and schools were

started in 2009 and 2011, respectively; that it was alleged that complainant-appellant was torturing the husband of first informant, beaten him on

31.3.2012 and pressurized him to sever himself and his connections from Management by accepting Rs.50 lacs towards full and final payment and

due to all these affairs above Vinod Chaudhary, the husband of accused-respondent was living under mental tension; that it was also alleged in the

F.I.R. lodged by accused-respondent that on 8.6.2012 four henchmen sent by appellant and Dheer Singh came to him at home and threatened him

following which he went to his room on first floor and killed himself by shooting from his own revolver; that the suicide note produced by accused-

respondent in above case was forged one and so upon investigation, final report was submitted, which has been accepted by the Magistrate vide

order dated 3.10.2012 at S.A.-9 with consent of the accused-respondent, the first informant of that criminal case; that against the order of

acceptance of final report, the accused-respondent Smt. Seema Singh approached this Court through application under section 482 Cr.P.C.,

which was rejected vide order dated 14.7.2014 at S.A.-10 and the S.L.P. filed by accused-respondent Smt. Seema Singh was also dismissed

vide order dated 19.8.2014 at S.A.-14; that it is proved from the evidence on record that applicant was neither partner nor co-trustee in the

alleged institute, rather his wife was one of the co-trustee; that the respondent Smt. Seema Singh knowing fully well that the applicant is not co-

trustee and his wife is co-trustee, with a mala fide intention, instead of wife, falsely implicated the complainant appellant in above case crime no.351

of 2012, just in order to defame and blackmail him; that due to publication of news in daily newspaper at the instructions of the accused-

respondent, the reputation of applicant has been badly damaged; that the learned trial court has acted wrongly and incorrectly in disbelieving the

complainant's evidence and acquitting the accused-respondent by giving her benefit of exception IXth to section 499 IPC and by holding that no

offence under sections 501 and 502 IPC is made out against her; that the applicant is very high ranking P.C.S. officer with his two sons-in-law

being I.A.S officers and has every hope of success in appeal and so leave to appeal may kindly be granted.

5. Upon hearing learned counsel and perusal of record, impugned judgment and order as well as the documents filed by appellant through

supplementary affidavit, I find that the learned trial court has discussed and analysed the complainant-appellant's evidence in detail and has come

to the conclusion that the F.I.R. lodged by accused respondent Smt. Seema Singh, has been lodged bonafidely and so she is entitled for the benefit

of Exception IXth to section 499 IPC and no case under sections 501 and 502 IPC may be made out against the accused-respondent Smt.

Seema Singh, because the above offence can be made out only against the person, who prints or sale, the printed material, while there is no

averments and no iota of evidence to show that the news item was got published in newspaper at the instructions of the first informant (the

accused-respondent) or that she sold the copies of newspaper in general public.

6. The brief facts of the case are that Smt. Seema Singh, the accused-respondent lodged a F.I.R. at case crime no.351 of 2012, under sections

323, 504, 506, 306 and 511 IPC against Dheer Singh, Shailendra Chaudhary (the appellant) and Rajiv Verma, Principal of Vidyadeep Institute of

Management College and Vidyadeep Global School and four unknown persons with the allegations that:-

her husband Vinod Chaudhary was a partner with Dheer Singh and Shailendra Chaudhary in the construction and management of Vidyadeep

Institute of Management College and Vidyadeep Global School village Bhaisa, P.S. Mawana, District Meerut and Shailendra Chaudhary, the then

Vice Chairperson, Bulandshahr Development Authority in collusion with other partner Dheer Singh tried to oust her husband from the

management, which was started in the year 2009 and threatened him of dire consequences; that Shailendra Chaudhary being an influential

executive officer taking undue advantage of his post, used to commit marpeet abusing and mental torture to her husband through his men; that on

31.3.2012 when her husband went to the college with his son, accused Dheer Singh and Shailendra Chaudhary got the main door closed and did

not permit him to enter in the college and school, and subsequently, after calling Vinod Chaudhary and his son inside, Dheer Singh, Shailendra

Chaudhary and Principal of College, Rajiv Verma committed marpeet with him and abused and threatened him to sever all connections from the

management by accepting a sum of Rs.50 lacs, else the death of his son will be caused; that on 8.6.2012 at about 3:00 p.m., in afternoon four

unknown persons (henchmen of appellant) came to her husband at his home in a car and told her husband that they have been sent by Shailendra

Chaudhary and Dheer Singh and threatened her husband of life, in case he does not sever all connections from the management of institutions of

college and school, where after her husband came out from the drawing room, went to his room on first floor and committed suicide by firing in his

head by his own revolver, resulting in his death; that her husband was mentally and physically tortured by men of Shailendra Chuadhary, who had

taken partnership in the school/college management in the name of his wife Vipina Chaudhary and with Dheer Singh and by causing abetment

compelling him to commit suicide"".

7. In the above case crime no.351 of 2012 registered on F.I.R. dated 8.6.2012, Vinod Chaudhary the husband of first informant died on

10.6.2012 and upon investigation, final report was submitted within one month on 8.7.2012 and 6.10.2012 was fixed for objections and hearing of

final report, but on 3.10.2012 upon an application Annexure No.S.A.7 allegedly moved by first informant stating therein that since on 6.10.2012,

lawyers will abstain from work and hearing of above case would not be possible, so hearing may be completed today itself and since she has no

objection, the final report may be accepted. In this manner on the application accompanied with affidavit at S.A.8, the final report is said to have

been accepted vide order dated 3.10.2012. It may be noted that after a period of over 9 months from acceptance of final report, the complainant-

appellant has sent a notice to respondent-accused on 18.7.2013 and after a period of over one year has filed this complaint case with the

allegations :-

that the above F.I.R. had been lodged by accused respondent Seema Singh with false allegations and full knowledge that such imputation will

harm the reputation of complainant, who is a senior P.C.S. officer and by publication of news of above criminal case in local newspaper ""Amar

Ujala"" at Meerut, the defamation of applicant was caused; that the complainant was not partner to the above institutes and had no concern with the

above institutes and neither he pressurized the deceased for severing all his connections from the management of institutes in lieu of money nor did

compel him for committing suicide"".

8. It is undisputedly crystal clear from the evidence on record that Smt. Vipina Chaudhary, the wife of complainant-appellant was one of the co-

trustee in the Vidyadeep Institute of Management College and Vidyadeep Global School, which fact the complainant-appellant could not dare to

deny. It has been specifically mentioned in the F.I.R. lodged by accused-respondent at case crime no.351 of 2012, that Shailendra Chaudhary, the

husband of co-trustee Smt. Vipina Chaudhary (since being a government servant could not have taken co-trusteeship or partnership in his own

name) so did take partnership in the name of his wife Vipina Chaudhary by making her co-trustee. It is also pertinent to mention that in the trust

deed of institutes Smt. Vipina Chaudhary is a co-trustee with her parentage (the name of her father) and not with the name of her husband

Shailendra Chaudhary, while undisputedly, the relationship of marriage between Shailendra Chaudhary and Smt. Vipina Chaudhary did exist and

was intact at the time of execution of trust deed and there is no whisper of separation or divorce. It may not be disputed that ordinarily the Hindu

married ladies use to give the name of their husbands and stop mentioning the name of their fathers, which they use to give as unmarried girls unless

otherwise required. It is quite possible that in order to conceal any connections of complainant-appellant in the partnership business of institutes of

college/school, the name of father of complainant-appellant's wife would have been mentioned.

9. It has been contended on behalf of complainant-appellant that he does not read newspaper ""Amar Ujala"" and the newspaper of District Meerut

dated 11.6.2012 was provided to him by his friend analysing on 15.6.2012. It is noteworthy that the notice of defamation is alleged to have been

sent to the accused-respondent on 18.7.2013 after a period of over 13 months from the date of publication of news item and alleged defamation,

while complaint case has been filed on 23.10.2013 after a period of over one year from the acceptance of final report in case crime no.351 of

2012 on 3.10.2012. Upon analysing the evidence on record, the trial court has found that the complainant-appellant has not assigned any reason

for concealment of the material fact that his wife Smt. Vipina Chaudhary was co-partner/co-trustee of the institutes with deceased husband of

accused-respondent. In the circumstances, since the complainant-appellant is undisputedly a high ranking senior P.C.S. officer, having wide

administrative powers and undisputedly a high ranking influential person, his interference in management and business of institutes, may not be ruled

out.

10. The accused-respondent has examined herself as defence witness in the complaint case, wherein she has specifically stated that she had lodged

the F.I.R. in good faith and did not lodge it with incorrect allegations and that she did neither give any instructions nor provide any material for

printing any news article in any newspaper. She has also stated that the final report was got accepted in the criminal case in very hurried and

surreptitious manner by obtaining her signatures under pressure. It is also pertinent to mention that since the fact that wife of complainant-appellant

was partner/co-trustee has been clearly mentioned in the F.I.R., itself, the accused-respondent may not be stated to have lodged F.I.R. against the

complainant-appellant with any malice or malafide intention or without any basis by concealing any fact. The argument of appellant that such

allegations were made against appellant instead of his wife, has no force, because the wife of appellant did not take any active role in business of

college except her name was in papers and all the acts of threatening etc. were allegedly committed by her husband and so the accusation of wife

of appellant was rightly not made. The argument advanced on behalf of complainant-appellant that instead of filing F.I.R. against the wife of

complainant, it was lodged against the complainant with an intention to harm and harass his reputation and defame him, so that she can blackmail

him and extract money from him, also has no force, as there is no case or evidence by the complainant-appellant that the accused-respondent ever

made any demand of any amount of money from him for leaving the prosecution of case crime no.351 of 2012 or any loss of reputation as well as

defamation was caused to him on account of alleged accusation or blackmailing.

11. It is pertinent to mention that in the F.I.R. lodged by respondent, no allegations on character or integrity of appellant have been made and mere

accusation on account of illegal acts by appellant, no defamation may be presumed or could be proved by the complainant-appellant. The friend of

appellant Rishipal, also has not stated that by reading above news respect and reputation of appellant was diminished in his eyes to any extent and

there is no iota of such evidence by any other witness.

12. It is also pertinent to mention that the newspaper reports as per

13. Annexure No.S.A.16 published in ""Dainik Jagran"" and ""Amar Ujala"", in the newspaper ""Dainik Jagran"" only the news about incident of firing

by deceased at himself and his critical condition has been published without any reference of name or post of complainant-appellant, while in local

newspaper ""Amar Ujala"" dated 11.6.2012 of Meerut, only news with regard to lodging of F.I.R. against complainant-appellant and others has

been published. It will not be unnecessary to mention that complainant himself claims to be Vice-Chairman of Bulandshahr Development Authority,

Bulandshahr at that time and there is no evidence on record to show that above news item was also published in local newspapers of Bulandshahr,

or newspapers published at Meerut were in wide circulation at Bulandshahr, and by publication of the news in local newspapers of Meerut how his

reputation was damaged to any extent or defamation was caused.

14. From the evidence on record, I find that undisputedly the complainant-appellant is a senior P.C.S. officer and having two sons-in-law in Indian

Administrative Services, he is an influential person having wide administrative powers and connections. I am of the considered view that the

complainant-appellant has utterly failed to prove by any independent, cogent and trustworthy evidence that by lodging of F.I.R. by accused-

respondent in good faith (on death of her husband due to alleged acts of complainant-appellant) or by publication thereof in local newspaper of

Meerut, any defamation was caused to him or any loss was caused to his reputation. The appellant being such a highly posted person, may not

claim immunity against accusation of his criminal acts and may not claim himself above the law of nation. There is no whisper that due to lodging of

F.I.R. by accused-respondent, he was suspended from service or any disciplinary departmental proceedings were initiated against him or his

colleagues used to pass remarks on him or started keeping distance from him. It is clear from the material on record that ego of highly placed

P.C.S. officer, who felt himself above law was hurt to such an extent that on account of it, in order to teach a lesson to poor widow lady, he filed a

much belated and false complainant, in consultation with high level legal advise after a period of over one year. The learned trial court has rightly

found the case of the accused-respondent being fully covered by Exception IXth to Section 499 IPC and has also correctly held that there are no

allegations or evidence on record to show that news was published at the instructions of accused-respondent so the offences under sections 501

and 502 IPC are not made out against her and moreover since publisher or correspondent of the concerned newspaper have not been made

accused, the accused-respondent may not be held guilty for the offences under sections 501 and 502 IPC.

15. It is settled principle of law that if at the time of passing an order of acquittal two opinions are possible on some point and the trial court has

taken one in passing the acquittal order, the appellate court may not interfere with the order of acquittal and take another view unless there is some

glaring mistake of law or perversity in the impugned judgment and order.

16. It is settled principle of law as held by Hon"ble the Supreme court in the case of K. Prakashan v. P.K. Surenderan, (2008) 1 SCC 258

When two views are possible, appellate Court should not reverse the Judgment of acquittal merely because the other view was possible. When

Judgment of trial Court was neither perverse, nor suffered from any legal infirmity or non consideration/misappropriation of evidence on record,

reversal thereof by High Court was not justified"".

17. In view of discussions made above, I have come to the conclusion that the learned counsel for the complainant-appellant has utterly failed to

show any legal infirmity, incorrectness or perversity in the findings given in the impugned order of acquittal and there is no sufficient ground for

interfering with or setting it aside the acquittal order and converting it from acquittal into conviction order by displacing the findings of trial court.

The application u/s 378 (4) Cr.P.C. for leave to appeal has no force and is liable to be dismissed.

18. The application u/s 378 (4) Cr.P.C. for leave to file appeal is dismissed accordingly and the appeal also stands dismissed.

19. Let a copy of order be sent to court below immediately.

20. Order on Memo of Appeal

Hon"ble Harsh Kumar, J. :-

21. Dismissed.

22. For order, see order of date passed on application for grant of leave to file appeal.