

(2005) 02 KL CK 0062

High Court Of Kerala

Case No: C.R.P. No. 245 of 2005

K.M. Chitharanjan

APPELLANT

Vs

P.M. Kunhunni and Another

RESPONDENT

Date of Decision: Feb. 28, 2005

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Penal Code, 1860 (IPC) - Section 205

Citation: (2005) CriLJ 4434

Hon'ble Judges: Pius C. Kuriakose, J

Bench: Single Bench

Advocate: Party in person, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Pius C. Kuriakose, J.

I do not find any justification for invoking this Court's revisional jurisdiction on the order passed by the Principal Subordinate Judge, Kozhikode and confirmed by the District Judge, Kozhikode under which the Subordinate Judge and the District Judge have concurrently concluded that there is no warrant for initiation of criminal proceedings against the second respondent in the C.R.P., a lady by name P. M. Valsala.

2. The allegation or rather the accusation of the revision petitioner is that the second respondent, Smt. P. M. Valsala impersonated for the first respondent in A. S. No. 165/97, one P.M. Kunhunni and filed a counter-statement before the Sub Court in I. A. No. 4308/01. Ext. P. 1 produced along with the revision petitioner is the certified photostat copy of the controversial counter statement. Pages 1 and 2 of Ext. P1 bears the signatures of Smt. P. M. Valsala, who is none other than the

mother of Sri P.M. Kunhunni, the 1st counter petitioner in I. A. No. 4308/01. Smt. Valsala has subscribed her own signatures to the original of Ext. P.1. The stand of Sri P.M. Kunhunni before the Court below was that I. A. No. 1093/02 filed by the present revision petitioner seeking initiation of criminal proceedings against Smt. P. M. Valsala for having committed offence coming u/s 205, I.P.C. was a misconceived application and that the petitioner's intention is only to harass the respondent in one way or other. It was pointed out that Smt. P.M. Valsala was the wife of Late K. M. Kunhunni, who is none other than the direct brother of the petitioner K. M. Chitharanjan. Ultimately it was contended that the subscription of her signature by P.M. Valsala through the counter statement which was to have been signed by her son P.M. Kunhunni was because of inadvertence and most importantly Sri P.M. Kunhunni has expressly accepted the statement filed by Smt. P.M. Valsala as his own and has also stated that everything stated in the statement signed by P.M. Valsala are true. The learned subordinate Judge dismissed the application finding that the application is vexatious in nature. The lower appellate Court made a thorough reappreciation of the case. Considering the maintainability of the appeal, the Court held that the appeal is not maintainable and is liable to be dismissed on that ground alone. Nevertheless, for the sake of completion, the Court considered the case on merits also. The lower appellate Court noticed the stand of Sri. P. M. Kunhunni that the signing of the counter statement by his mother Smt. P.M. Valsala was only a mistake committed by her and that the counter statement at any rate was statement of true facts. The Court further noticed that a direct complaint was submitted by the revision petitioner before the Chief Judicial Magistrate for prosecuting Smt. P.M. Valsala, the alleged impersonator and the same was dismissed and that even a criminal revision filed against the order of dismissal was dismissed by the Sessions Judge. The Court below ultimately agreed with the learned subordinate Judge and dismissed the appeal with costs.

3. Sri K. M. Chitharanjan, revision petitioner appeared before me in person and addressed me elaborately on the various grounds raised in the revision petition. Though some of the submissions made by Mr. Chitharanjan at the bar were very persuasive and Mr. Chitharanjan, a law graduate/lawyer claimed to be concerned about the necessity of curbing the evil trends in our adjudicatory system and the potential dangers in "allowing impersonators to go scot-free", having regard to the limits of the jurisdiction which is being invoked, I find myself unable to interfere with the impugned order. This Court in revisional jurisdictional u/s 115, C.P.C. usually looks for jurisdictional infirmities which taint the lower Court's orders. I do not find any jurisdictional infirmity about the orders passed by the learned sub Judge and the District Judge warranting interference by this Court u/s 115, C.P.C. It will also be noticed that even though a reading of Section 115 of the C.P.C. indicates that the High Court can invoke revisional jurisdiction to correct orders tainted with jurisdictional infirmities subject to the proviso to that section, the Supreme Court has in [Brij Gopal Mathur and Another Vs. Kishan Gopal Mathur and Others](#), held that

exercise of the revisional jurisdiction u/s 115 of the C.P.C. by the High Court is discretionary and the Court can refuse to exercise the jurisdiction unless the order sought to be revised has occasioned a substantial failure of justice. The Supreme Court also held that general inequities can be one of the considerations to govern the Court while deciding whether revisional jurisdiction should be exercised. I have no difficulty to decide that on considerations of general equities also exercise of revisional jurisdiction in this case will be totally unjustified. After, all, high sounding accusations of the petitioner notwithstanding, what became obvious before the Courts below is that Smt. P. M. Valsala is the wife of late K. M. Kunhunni, the petitioner's own brother, and that Sri. P.M. Kunhunni is Valsala's own son, though their relationships were not disclosed by the petitioner for reasons best known to him. It also became obvious that what was actually done by Smt. Valsala was to put her own signature to a counter statement that was to have been signed by her son. The son did not disown the mother. He did endorse the statement signed by his mother and the Courts below were convinced by the stand of the mother and the son that the mother's act was only a bona fide mistake and not an offence. The Courts below were convinced that designs of the petitioner in seeking initiation of criminal proceedings against the respondents was not to uphold the honour and purity of the justice administration system but instead to wreak vengeance on his sister-in-law and nephew who had successfully launched a civil litigation against him.

The revision fails and the same will stand dismissed in limine.