
(1957) 05 MP CK 0007

Madhya Pradesh High Court

Case No: Criminal Revision No. 491 of 1956

Gahru Ram Ram Kumar

APPELLANT

Vs

Rambaran Thakuri and Another

RESPONDENT

Date of Decision: May 30, 1957

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 198
- Penal Code, 1860 (IPC) - Section 499

Citation: AIR 1958 MP 278 : (1958) CriLJ 1191

Hon'ble Judges: T.P. Naik, J

Bench: Single Bench

Advocate: Y.S. Dharmadhikari and A.B. Shinde for Non-applicants 1 and 2 respectively, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

T.P. Naik, J.

Non-applicant No. 2 Rambaran filed a complaint in the Court of the Magistrate, 1st Class, Baikenthpur, under Sections 500 and 506 (second part) of the Indian Penal Code against non-applicant No. 1 Gahruram, alleging that on 8-11-1955, Gahruram met the complainant Rambaran on the road at village Mohara and defamed him by saying that his (complainant's) wife had practised witchcraft on his fields on account of which his crops had been spoiled, that when he would get the opportunity he would kill him and that he published this defamatory imputation in the village. The trial Court acquitted the accused-non-applicant No. 1 of the offence u/s 506, I. P. C. but convicted him of the offence u/s 500 I. P. C. and sett-need him to pay a fine of Rs. 25/- or in default to undergo rigorous imprisonment for a period of one month.

2. The Additional Sessions Judge, Ambikapur, has reported the case u/s 438 of the Code of Criminal Procedure with a recommendation that the conviction and the sentence of the non-applicant Gahruram be set aside on the ground that the

imputation that the complainant Rambaran's wife was a witch and was practising witchcraft could not be defamatory of the complainant and consequently he was not competent to make the complaint as he could not be said to be a "person aggrieved" within the meaning of Section 198 of the Code of Criminal Procedure.

3. The learned Counsel for the non-applicant No. 1 who appeared in, support of the reference contends that the imputation that the wife of the complainant was a witch and practised witchcraft could not be defamatory of the complainant and as that computation would be defamatory of Ramliaran's wife only, the complainant would not be a "person aggrieved" and consequently was not competent to file the complaint.

Reliance is placed on a decision of Chatiirvedi J- reported in Kamal Chand v. Amar Chand AIR 1952 MP 180 (A) wherein it has been laid down that where the wife was accused of theft, the husband cannot be deemed to have a legal grievance; for whatever pain of mind he may suffer from the slander of his wife, the injury caused to him is mediate or remote & not immediate or proximate, and further that such an imputation implied no imputation of personal misconduct of the husband. It was consequently held that under those circumstances, the husband was not a "person aggrieved" within the meaning of Section 198 of the Code of Criminal Procedure and could not therefore file a complaint.

4. In my opinion, it is not necessary that an imputation of personal misconduct on the part of the husband must be involved in the accusation before the husband can be classed as a "person aggrieved" within the meaning of Section 198 of the Code of Criminal Procedure. What is required is whether the reputation of the wife vis-a-vis the particular imputation made is so bound up with the reputation of the husband that an imputation against the wife affects him also.

The nature and the character of the accusation will have an important bearing and consequently it will depend on the facts and circumstances of each case whether under the particular circumstances established in that case the husband is defamed by any scurrilous attack on the character of his wife. Some assistance in interpreting the expression "person aggrieved" can also be derived from the decided cases. There is a long line of cases wherein it has been held that a husband is a "person aggrieved" if an imputation of unchastity is made against his wife with whom he is living : See Chhotalal v. Natha-bhai ILR 25 Bom 151 (FB) (B), Chellam Naidu v. Ramasami ILR 14 Mad 379 (C), Gurdit Singh v. The Crown ILR 5 Lah 301 : (AIR 1924 Lah 559) (D); [B. Appanna Vs. P. Akkanna](#),

5. In Thakur Das Sar v. Adhar Chandra Missri ILR 32 Cal 425 (G) it was sought to be argued that the rule enunciated in Chhotalal v. Nathabhai (B) (supra) that a husband can lay a charge of defamation when a wife is defamed ought not to be extended to complaints of other relatives. Repelling the contention a Division Bench of the Calcutta High Court (Ameer AH and Handley JJ.) observed that :

"A Hindu lady residing with her father, her brother or her son is a member of his family; and her reputation is bound up with the reputation of the person in whose house and under whose charge she is living. If any imputation is made against her character, that would affect as much the relative with whom she is living as herself.

In that view of the matter we think that the brother with whom this lady was living was as much aggrieved by the imputation made against Soudamini as the lady herself, and that therefore, it was competent to the Court to take cognizance of the offence of defamation upon his complaint".

6. Similarly, in *Biswanath Rubna v. The King* 50 Cri LJ 972 : (AIR 1949 Cal 567) (H), Sen J., observed that when scurrilous attacks are made upon a person's wife, there can be no doubt that the person is defamed although nothing against him personally is alleged.

7. I am therefore clearly of opinion that the imputation that the complainant Rambaran's wife was a witch and practised witchcraft and destroyed the crops of the accused was an imputation affecting the complainant-husband Rambaran and he could validly make a complaint u/s 500 I. P. C. The conviction and sentence of the non-applicant Gahru-rarn was thus proper. No interference in the conviction or sentence is called for. The reference is not accepted.