Rev. Dr.Busi Suneel Bhanu, S/o. Anandam Vs The State of Andhra Pradesh

1785 of 2011

Court: ANDHRA PRADESH HIGH COURT

Date of Decision: Nov. 14, 2017

Acts Referred:

Indian Penal Code, 1860, Section 199, Section 200 - False statement made in declaration which is by law receivable as evidence - Using as true such declaration knowing it to be false

Citation: (2017) 11 AP CK 0021

Hon'ble Judges: T. Rajani

Bench: SINGLE BENCH

Advocate: A.PRABHAKARA RAO, N.SIVA REDDY

Final Decision: Allowed

Judgement

1. The criminal petition is filed by the petitioner seeking for quash of the proceedings in CC.No.14 of 2011 on the file of the III Additional Judicial

First Class Magistrate, Rajahmundry.

2. Heard counsel for the petitioner and the learned Public Prosecutor, who takes notice for R1. The second respondent does not appear in spite of

notice.

3. A case was registered based on a private complaint filed by the complainant. The allegations in the complaint read keenly do not make out any

offence, which can be stated to have been committed by the accused. The allegations are that in the elections held in the month of May 2009 for

the purpose of President of AEL Church, the accused was elected as President and he wanted removal of the complainant from his post by hook

or crook. As a loyal servant of the Church, the complainant never intended to bring the offences committed by the accused. The accused issued a legal order, restraining the complainant from discharging his duties as bursar of ALT Seminary. On receipt of the said order, the complainant

approached the Principal District Court, Rajahmundry and also the Principal of ALT Seminary and temporary injunction was granted, which was

made absolute subsequently. The complainant filed Ex.P22 a bunch of property tax demand notices issued by the Municipal Corporation,

Rajahmundry to a tune of Rs.28,00,000/-. The accused knowing fully well that the Church is bound to pay the tax, failed to pay the amount and it

is categorically mentioned in the counter that it is false to allege that the previous Bursars and Principals did not pay tax to the Municipal

Corporation of Rajahmundry for the past several years amounting to several lakh of rupees

4. It is this submission of the petitioner made in the counter that is tried to be projected as an offence under Sections 199 and 200 of the Indian

Penal Code. The alleged statement made by the petitioner does not by any stretch of understanding constitute an offence under Sections 199 and

200 IPC. The truth of the said statement unless gone into cannot amount to an offence. Mere denial of a fact, which is asserted by a party in the

petition filed by him, cannot be taken as a false statement unless adjudication of the said statement is made.

5. Sections 199 and 200 IPC can be extracted for a ready reference:

199. False statement made in declaration which is by law receivable as evidence.

Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or

authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does

not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as

if he gave false evidence.

200. Using as true such declaration knowing it to be false. Whoever corruptly uses or attempts to use as true any such decla- ration, knowing the

same to be false in any material point, shall be punished in the same manner as if he gave false evidence. Explanation.A declaration which is

inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 to 200 .

6. The Court is not bound to take the counter as evidence of any fact and no adjudication, based on mere pleadings would be made by a Court.

The counter is not a substantial piece of evidence. Thereby, Section 199 IPC does not attract the allegations in the complaint. No allegation that

such a statement made in the counter, is used by anyone, much less the petitioner, is made. At any rate, an averment in a pleading cannot be

considered as a declaration. Hence, prosecution for the offence under Section 200 IPC cannot be permitted.

7. The counsel for the petitioner, further, submits that the grievance of the complainant is only that he was removed from the post of bursar.

8. The complaint also supports the said contention and except the said grievance, there cannot be any reason for the complainant to file this

complaint, which does not make out any offence against the petitioner. There cannot be any personal grievance for the complainant for non

payment of taxes. It only suggests that the complainant wanted some pretext to harass the petitioner and hence, filed this complaint. The

continuance of the proceeding would only result in abuse of process of law.

With the above observation, the criminal petition is allowed and the further proceedings in CC.No.14 of 2011 on the file of the III Additional

Judicial First Class Magistrate, Rajahmundry are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.