

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.184 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 378(4) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the complainant against the judgment, dated 30.11.2006, in C.C.No.13 of 2003 on the file of the Judicial Magistrate of First Class at Macherla whereunder and whereby, respondent Nos.1 to 4/A-1 to A-4 were found not guilty of the offence punishable under Section 500 read with 34 I.P.C. and acquitted for the said offence under Section 255(1) Cr.P.C.

2. Case of the prosecution, in brief, is as follows:

The complainant is a Junior Lecturer in History in SKBR Government Junior College, Macherla. A-1 to A-4, being the In-charge, Reporters and Editor of Eenadu Daily News Paper, colluded with one Marreddy, Satish Babu and Venkata Rami Reddy, who are also the Junior Lecturers in SKBR Government Junior College, got published a defamatory false news item in Eenadu Telugu Daily against the complainant under the caption "Warden Vaikhariki Nirasana Vidyarthi Rally". It is further alleged that the said news item was published in Eenadu Telugu Daily News paper in page No.3 of Guntur District Edition on 23.8.2002 attributing certain allegations against the complainant intentionally in order to defame the complainant in the eye of public and thereby, all the accused have committed an offence punishable under Section 500 read with 34 I.P.C.

3. The complaint was taken cognizance against A-1 to A-4 for the offence under Section 500 read with 34 I.P.C. When examined the

accused under Section 251 Cr.P.C. by bringing the accusation to their notice, all the accused denied the offence, pleaded not guilty and stated that they have defence to make.

4. To substantiate the case of the complainant, P.Ws.1 and 2 were examined and Exs.P-1 to P-11 were marked besides case property – M.O.1.

5. After closure of the evidence on complainant side, the accused were examined under Section 313 Cr.P.C. They denied the evidence on the side of the complainant and stated that they have defence witnesses. On behalf of the accused, D.Ws.1 to 4 were examined and Exs.D-1 to D-7 were marked.

6. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty for the offence under Section 500 read with 34 I.P.C. and accordingly, acquitted them. Challenging the same, the complainant filed the present appeal.

7. Heard and perused the material available on record.

8. The trial Court rightly held that the publication under Ex.P-1 news item was published in public interest with good faith without any malicious intention after taking due care and caution by the accused. The complainant also admitted that he has no disputes with the accused and he do not know with what intention the news item was published by the accused. The evidence of P.Ws.1 and 2 clearly shows that it was published on the strength of the Dharna conducted by the hostel students and on the basis of the grievances reported by the students. The complainant failed to prove the said offence by any cogent and corroborative evidence. Apart from that, no legally acceptable evidence was produced by P.W.1. On the other hand, the evidence of D.Ws.1 to 4 is cogent and corroborative. Hence, the impugned judgment warrants no interference of this Court. Further, in

a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the order of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

9. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 30.11.2006, in C.C.No.13 of 2003 on the file of the Judicial Magistrate of First Class at Macherla.

10. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

28.7.2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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