

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.11895 of 2011

ORDER:

Heard learned counsel for the petitioner and the respondents.

The present criminal petition is filed to quash the proceedings initiated against the petitioner, who is accused No.2 in C.C.No.24 of 2010, on the file of the II Additional Junior Civil Judge -cum- Additional Metropolitan Magistrate, Anakapalli, Visakhapatnam District.

The facts of the case are that the 1st respondent herein filed a complaint on 28.07.2005 against Ashok Tankasala and five others stating that he worked as Village Administrative Officer, Gali Bheemavaram Village, till abolition of the said post and presently he is working as Assistant Secretary of the same village. While so, in the news published on 03.03.2003 in 'Vartha' daily news paper with the title "Bhoomi Ammanandhuku Thota Narikiveta", it was mentioned that the 1st respondent herein demanded accused Nos.4 and 5 to sell away their land and that on 22.01.2005, the 1st respondent cut away the Casuarina tope illegally and took away the same in the lorries. By virtue of the said publication of the news item, the 1st respondent was put to public contempt, ridicule, embarrassment, disgrace and prejudice apart from the accused knowing-fully well that the said statement is false, defamatory, malicious and libelous. Further, due to

publication of the said news item, the 1st respondent suffered mentally and physically and also resulted in severe damage to his reputation. Therefore, he filed the complaint to take appropriate action against the accused. The said complaint was numbered as C.C.No.24 of 2010. Aggrieved by the said proceedings, the present criminal petition is filed.

The petitioner basically contended that he is only the Chief Managing Director of Vartha Daily newspaper and he has no role in selecting, printing and publishing of news item, which will be looked after by the editor and the reporter. In terms of Section 7 of the Press and Registration of Books Act (for short, "the Act", no presumption can be drawn against him in the capacity of Chairman and Managing Director and as such the complaint lodged against him is not maintainable. To substantiate his contention that the Chief Managing Director has no role in selecting, printing and publishing of news item, he has relied on the judgment of the Hon'ble Supreme Court in **Haji C.H. Mohammad Koya v. T.K.S.M.A. Muthukoya**¹, whereunder the Hon'ble Supreme Court, after considering the effect of Section 7 of the Press and Registration of the Books Act, has categorically held that in the absence of sufficient evidence as against the person whose name shall be subscribed to such declaration, no proceedings shall be lodged against the person, who made to cause such publication.

¹ AIR 1979 SC 154

In fact, the basic object in enacting the Act is to regulate printing presses and newspapers in order to preserve copies of newspapers and books. Moreover, in order to avoid multiplicity of suits and uncertainties of liabilities, it was considered necessary to choose one of the persons from the staff and make him liable for all the articles or matters published in the paper so that any person aggrieved may sue only the person so named under the provisions of the Act and is relieved from the necessity of making a fishing or roving enquiry about persons who may have been individually responsible for the offending matters published in the paper.

Further, the term 'editor' as defined in Section 1(1) of the Act means a person who controls the selection of the matter that is published in a newspaper. Where a person's name is printed in the newspaper as its editor as required by Section 5(1), Section 7 of the Act raises a rebuttable presumption only against such editor. He can rebut the presumption by showing that he had nothing to do with the publication of the editorial or the news reports. But where a person is not shown in the paper to be its editor no such presumption under Section 7 of the Act can be drawn but it must be held that he has no concern with the publishing of the article. Further, the Act does not recognise any other legal entity except the editor in so far as the responsibilities of that office are concerned.

In the case on hand, the petitioner herein is the Chief Managing Director and he is not responsible for any of the acts relating to selecting, printing and publishing of any news items.

Further, a perusal of the complaint would also reveal that no material is enclosed to show that the petitioner was responsible for publication of such news item.

In these circumstances, continuation of further proceedings against the petitioner herein, who is admittedly the Chief Managing Director, was nothing to do with selecting, printing and publishing of any news item would amount to abuse of process of the Court.

In the result, the criminal petition is allowed and the proceedings initiated against the petitioner for the offence under Section 500 IPC in C.C.No.24 of 2010 on the file of the II Additional Junior Civil Judge – cum – Additional Metropolitan Magistrate, Anakapalli, Visakhapatnam District, are hereby quashed.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 11.10.2017.
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