

Municipal Board vs Ganesh Prasad Chaturvedi on 14 September, 1951

Equivalent citations: AIR1952ALL114, AIR 1952 ALLAHABAD 114, ILR 29 PAT 992

ORDER

Bind Basni Prasad, J.

1. This revision raises an interesting point of law. The Municipal Board of Konch in the district of Jalaun brought a complaint; against Ganesh Prasad, applicant under Section 500, Penal Code, alleging that by issuing certain leaflets the applicant had defamed the Board. The trying Magistrate held Ganesh Prasad guilty and sentenced him to a fine of Rs. 200 or in default to three months' simple imprisonment. In appeal the learned Sessions Judge held :

"That no public body created under law can maintain a prosecution for any criticisms against it even if that criticism is not fair."

He examined the case on merits also and arrived at the conclusion that the criticisms levelled by Ganesh Prasad against the administration of the Board was not unfair. In the result, he allowed the appeal and dismissed the complaint.

2. Learned counsel for the applicant has contended that Section 499, Penal Code, entitled any person, whose reputation has been damaged, to maintain a complaint for defamation. He has invited, my attention to Section 11, Penal Code, according to which, 'the word 'person' means any Company or Association, or body of persons, whether incorporated or not.' Reference has also been made to explanation 2 of Section 499 which provides :

'It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such'.

Learned counsel for the applicant has also referred to Ankaraju Subbaraya v. Batuk Prasad, A.i.r. (24) 1937 ALL. 677, in which it was held that:

"If a well defined class is defined, each and every member of that class can file a complaint. In other cases the defamatory words must refer to some ascertained and ascertainable person and that person must be the complainant."

This authority is of no help to the Municipal Board, Konch, because it does not lay down that a statutory body like the Municipal Board can maintain a complaint for defamation. It lays down only

that individual members of the Board can file a complaint. That is not the position here.

3. On behalf of the opposite, party reliance is placed upon the Mayor, Aldermen and Citizens of Manchester v. Williams, (1891) 1 Q. B. 94. It was held in that case that in an action for libel brought by a corporation, the statement of claim complained that the defendant had charged the plaintiffs with corrupt practices. It contained no allegation that the plaintiffs had suffered any special pecuniary damage in consequence of such imputation. It was held that inasmuch as a corporation, as distinguished from the individuals composing it, cannot be guilty of corrupt practices, the statement of claim disclosed no cause of action. Learned Sessions Judge has relied upon Maung Chit Tay v. Maung Tun Nyun, A.I.R. (22) 1985 Rang. 108, in which it was held that a corporation may maintain a prosecution or an action for a libel affecting its property, but not for a libel merely affecting personal reputation, as a corporation has no reputation apart from its property or trade. The words complained of must reflect on the management of its business and must injuriously affect the corporation, as distinct from the individuals who compose it. The alleged libel must attack the corporation in its method of conducting its affairs, must accuse it of fraud or mismanagement, or must attack its financial position. It cannot bring a prosecution for words which merely affect its honour or dignity. Moreover, it cannot maintain a prosecution for words which reflect not upon it as a body, but upon its members individually, unless damage has thereby been caused to it.

4. Having regard to the provisions of Section 499, read with Explanation 2 and the definition of the word 'person' in Section 11, Penal Code, it cannot be said that a complaint for defamation is not maintainable at all by a corporation. But certainly the scope of such a complaint by a corporation is not the same as that by individuals. The municipal board per se has hardly a reputation. If the management is good it will be said that the Board is being run efficiently. But if the management is bad there is bound to be accusation of inefficiency and nepotism etc. If a person makes any imputation so as to cause any special injury to the property of the board then the board can maintain a complaint under Section 500. But where the minority party in the board attacks the majority party for inefficiency then such an attack does not amount to defamation.

5. Now Section 499 requires inter alia an intention on the part of the accused to harm the reputation of the complainant or the knowledge that the imputation made by him will harm such reputation. Learned Sessions Judge has arrived at the finding that there was no such intention because he holds that the criticisms by Ganesh Prasad were not wrong. Impliedly the learned Sessions Judge means that these criticisms were intended to tone up the administration. In the absence of such intention the complaint is not maintainable.

6. For the sound working of democracy it is necessary that criticisms of the administration of the municipal boards, within reasonable limits, should be allowed. The first exception to Section 499 provides:

"It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published."

Ganesh Prasad is himself a member of this Board, but he seems to be of the minority party. He made certain exposures by the issue of leaflets. A perusal of those leaflets shows that they are directed more against the members of the majority party. There is complaint of the tyranny of the majority party. The allegations against them are that certain members taking advantage of their position have taken leases of plots in the names of their relations. These facts have been found to be correct by the learned Sessions Judge, The fact that the roads are bad, that the drainage under the roads are bad and the health of the residents of Konch municipality is poor, were admitted by the municipal board itself in their welcome address to the Hon'ble Minister of Local Self-Government. In these leaflets nepotism has also been alleged in the matter of taxation. Learned Sessions Judge has found that the tax of Ganesh Prasad was raised from Rs. 6 to Rs. 200 per annum, although he has got no big business and the only source of his income is a motor truck which he plea on hire. On the other hand, Shri Chatur Singh, Chairman, who is a Zamindar and agriculturist, has been assessed to a tax of only Ra. 3-6-0 per annum. Another member of the majority party Shri Eadha Charan Nigam who is a big Zamindar and possesses a shop of Pakki Arhat, has been assessed to a tax of Rs. 26-4-0 only. Lala Kedar Nath, another member, who is a mill owner, has been assessed to a tax of Rs. 37-8-0 only. There is a judgment in which the civil Court has severely criticised the Secretary of the Municipal Board. If in these circumstances, Ganesh Prasad criticised the present administration, it cannot be said that he was not inspired with the motive of public good.

7. There is an allegation also in one of the leaflets that public money is being wasted by the Board in useless litigation. The second exception to Section 499 provides:

"It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions or respecting his character, so far as his character appears in that conduct, and no further."

If Ganesh Prasad criticised the officers of the Board, who were incharge of its law department, of wasting money in litigation he did so in good faith, The present revision by the municipal board of Konch itself affords an example of the wasteful litigation in which it has indulged itself.

8. The conclusion at which I reach is that there was no intention on the part of Ganesh Prasad to harm the reputation of the municipal board. On the other hand, his intention was to improve its administration. The case is also covered by the first two exceptions of Section 499. The municipal ward of Kouch could not maintain this complaint because the leaflets in question do not damage the property of the board.

9. The revision has no force and it is hereby dismissed.