

D. Chattaiah And Anr. vs State Of Andhra Pradesh on 21 July, 1978

Equivalent citations: AIR1978SC1441, (1979)1SCC128, 1978(10)UJ894(SC), AIR 1978 SUPREME COURT 1441, 1978 CRI APP R (SC) 265, 1978 ALLCRIC 302, 1978 UJ (SC) 543

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Bench: P.S. Kailasam, R.S. Sarkaria

JUDGMENT

R.S. Sarkaria, J.

1. The appellants were tried and acquitted by the Magistrate in respect of a charge under Section 332 IPC. On appeal by the state, the High Court set aside their acquittal and convicted and sentenced them under Section 332 IPC to three months' rigorous imprisonment each.

2. They have come to this Court by special leave granted under Article 136 of the Constitution.

3. At the material time, the complainant Shaikh Masthan was a Typist of the Panchayat Samiti, Ipur. In the same office, appellants 1 and 2 and the accused. Guravareddy were working as Health Inspector, Lower Division Clerk and Health Worker, respectively, attached to the Primary Health center, Ipur.

4. The Charge on which the accused were tried ran as follows-

That you, on or about the 29th day of the November, 1968 in the Panchayat Samiti office at Ipur, caused hurt to Typist, Shaikh Masthan of the same office, which in discharge of his duties as such public servant with intent to deter him from discharging duties and thereby committed an offence punishable under Section 332 Indian Penal Code....

5. It will be seen that substantially, the charge as framed was under the second part of Section 332 IPC of which "the intent to prevent or deter public servant from discharging his duties as such public servant" is an essential ingredient.

6. Counsel for the appellants has taken us through the records including the copies of the statements of material witnesses. It is urged by him that no case under Section 332 IPC was made out against the appellants. In this connection, he has drawn our attention to the FIR which, according to him,

does not contain any allegation that the assault on the informant was with intent to prevent or deter him from performing his duty as public servant, or that it was the consequence of or related to anything done by him in the discharge of his official duty. We find force in this contention.

7. In the F.I.R. it has not been alleged that the incident was the outcome of anything connected with the performance of the complainants duty as public servant. There is not even an oblique allegation suggesting that he was assaulted with intent to prevent or deter him from doing his official duty. All that was alleged by him in the F.I.R. (Ex. P.5), was that while he was attending to despatch work in the office on 29.11.68 afternoon, the three accused (who work in the same office) approached and questioned him as to why he had abused them. On the informant's denial of the accusation, they beat him. In so assaulting the informant Manaepa Reddy used a stick and scissOrs.

8. In his evidence at the trial, the complainant (PW. 1) disclosed other facts which put it beyond doubt that the incident was the sequel of a private quarrel which took place between the complainant and the accused on the preceding day when the complainants as returning home from Samiti office, & was abused by the accused. In regard to the occurrence, the complainant's version at the trial was that while he was at his work at about 1.00 P.M., appellant I came, demanded an explanation why he was carrying on propaganda against family planning and abusing him. The complainant denied. Thereupon, A-1 slapped him and then A-2 hit him with a ruler and A-3 with a stick. The complainant caught hold of the stick. A-3 then picked up a pair of scissors from the complainant's table and hit him below left eye.

9. It was thus manifest that the assault on the Typist (P.W. 1) had no real nexus or causal connection, or consequential relation with the performance of his duty as public servant. There was not even a soientilla of evidence from which it could be reasonably inferred that the intent of the assailants was to prevent or dater P.W. 1 from the discharge of his duty as such public servant,

10. In view of the above, the charge as laid under Section 332 I.P.C. and, the conviction of the appellant on that count, cannot be sustained. The appellants could, at the most, be held guilty under Section 323 I.P.C. the injuries caused being simple.

11. We would, therefore, partly allow this appeal and alter the conviction of the appellants to one under Section 323 IPC. As regards the sentence, we are told that the complainant (P.W. 1) has compounded this case. To verify this we had issued notice to the complainant. But he has not in response to that notice, put in appearance either in person or through Counsel. Nor has he sent any information to verify the assertion made by the appellants at the bar.

12. We will, therefore, proceed on the basis that there has been no move to compound the case on behalf of the complainant. We are told that the appellants have already been in jail as undertrial and after conviction for more than a month. In any case they have undergone sufficient expense and agony of protracted criminal proceedings extending over a period of about 8 or 9 years. We, therefore, while altering their conviction to one under Section 323 I.P.C. sentence them to pay a fine of Rs. 200/- each or in default to undergo one months' Rule I. The fine, if realised, shall be paid as compensation to the complainant.