

SUPREME COURT OF INDIA

Bezawada Bar Assn.Tr.President

Vs.

Soumya Misra

Crl.A.No.130 of 2010

(Harjit Singh Bedi J.)

18.01.2010

ORDER

1. Leave granted.

2. The matter has a chequered history. This matter had earlier come to this Court at the instance of the State of Andhra Pradesh challenging the order of the High Court whereby it had virtually scuttled the proceedings against the respondent herein who happens to be a senior police officer. In accordance with the order of this Court dated 5/11/2001, the Magistrate was directed to proceed with the enquiry under Section 202 Cr.P.C. and thereafter proceed further in accordance with law. The accused thereupon filed Criminal Petition No. 4928/2006 under Section 482 Cr.P.C. praying that the proceedings that had been initiated by the appellant Bar Association be quashed. The High Court, in paragraph 8 and 9, has held as under:

"8. The present case was filed with an ulterior motive for wreaking vengeance on the accused and with a view to spite them due to private and personal grudge. Though the complainant alleged that they entered into the Bar Association with plain clothes, he did not mention as to what was the motive for the accused to confront with the members of the Bar Association and to register a false case against them.

9. By taking into consideration the sequence of the events, the delay in filing the complaint, the non-explanation by the complainant whether the police officers can be prosecuted without any sanction order under Section 197 Cr.P.C. And the non-explanation of the motive for the accused to foist a case against the member of the Bar Association by entering into the Bar Association premises without the commission of the offence, I am of the view that the facts of the present comes within the purview of illustration No.7 in the Judgment of the Supreme Court in Bhajan Lal's case (1 supra), therefore, the proceedings against the petitioners are liable to be quashed."

We are of the opinion that the finding referred to above could not have been recorded without evidence and as a matter of fact, the High Court has examined the matter as if it was doing so after the completion of a trial. We find absolutely no basis in the High Court's observations that there was an ulterior motive for taking vengeance with the members of the Bar Association or that the Bar Association had not been able to give any explanation as to why the respondent herein would lodge a false case against them and whether the respondent could be prosecuted without sanction under Section 197 Cr.P.C.

3. We are, therefore, of the view that the High Court order cannot be sustained. It is accordingly quashed and set aside. The appeal is allowed. Necessary consequences will follow.