

**HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL APPEAL No.644 OF 2016**

**JUDGMENT:**

This criminal appeal is filed by the appellant/complainant by invoking the provision under Section 378(4) of the Code of Criminal Procedure (Cr.P.C.), challenging the order of acquittal, dated 24.08.2015, passed in C.C.No.231 of 2006 by the II Additional Judicial Magistrate of First Class, Rajahmundry, whereby and whereunder the learned Magistrate found A-2 & A-3/respondents 2 & 3 not guilty of the offence punishable under Section 500 read with 34 IPC and acquitted them for the said offence.

2. The allegations against A-2 & A-3/respondents 2 & 3, in brief, are that the appellant/complainant is resident of Y. Ramavaram Village and Mandal and doing business in cotton, fertilizers and pesticides. A-2 is the close friend of the complainant. When a false criminal case was foisted against the complainant, A-2 stood as surety for his release on bail. As A-2 stood as surety, he developed greedy avaricious intention and started demanding more and more money from the complainant. The complainant used to oblige him and pay the money, but later he refused to pay money to A-2. Hence, A-2 bore grudge against him and started making bad propaganda against the complainant and not satisfied with the bad propaganda, he also gave a statement to A-3, a journalist of A-1, making wild allegations and a publication was made with highly defamatory, baseless and false accusations alleging that he has been cheating the agency farmers and extracting money from them and he has been blackmailing him and extracted Rs.30,000/- and failed to pay Rs.76,000/- due to him for sale of produce made by A-2 to the complainant. In fact, A-2 never paid any amount to the complainant and he is not due any amount towards the cost of the produce supplied by A-2. A-3 has published the article in the newspaper on 08.05.2005 with an intention to see that his reputation is damaged and spoil his business in Y. Ramavaram Village. Hence, the complaint.

3. After recording the sworn statements of the complainant and his witnesses, the case was taken on file for the offence under Section 500 read with 34 IPC against the accused.

4. The case against A-1 was dismissed as not pressed on 06.06.2015.

5. On appearance of A-2 & A-3, they were examined under Section 251 Cr.P.C. by putting the substance of the accusations levelled against them, they denied the same, pleaded not guilty and claimed to be tried.

6. To substantiate its case, the prosecution got examined P.Ws.1 & 2 and marked Exs.P-1 & P-2. On behalf of defence, no oral or documentary evidence was adduced.

7. After evaluating the oral and documentary evidence adduced by the prosecution, the trial Court found the accused not guilty of the offence punishable under Section 500 read with 34 IPC and acquitted them for the said offence. Aggrieved by the said judgment, the complainant preferred the present appeal.

8. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor for the 4<sup>th</sup> respondent and the learned counsel for respondents 2 & 3/A-2 & A-3.

9. The short point for consideration in this case is that the trial Judge acquitted A-2 & A-3 on the sole ground that the defamatory statement was published by A-1, the Editor, Andhra Jyothi, Rajahmundry, against whom the C.C.No.231 of 2006 was dismissed as not pressed on 06.06.2015. The learned trial Judge is also of the view that unless the publication is proved through admissible evidence, merely on the allegation that the accused made the said defamatory statements against the appellant/complainant, A-2 & A-3 cannot be found guilty. Hence, this Court is of the view that the reason on which the trial Court acquitted A-2 & A-3 is in accordance with law. Hence, this Court is of the view that the order of acquittal recorded by the trial Court against respondents 2 & 3/A-2 & A-3 is in accordance with law and there is nothing to interfere with the same.



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Date: 22<sup>nd</sup> July, 2016

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