

LEGALFOXES LAW TIMES

CASE COMMENT: “State of Tamil Nadu Vs Suhas Katti (2004) M.H.C.”

By POOJA

Court: Metropolitan Magistrate, Egmore

Bench: D. Arul Raj, Additional Chief Metropolitan Magistrate, Egmore, Chennai

Complainant: State of Tamil Nadu

Respondent: Suhas Katti

Decided On: 05/11/2004

Facts

- In the present case, Ms.Roslind, the victim, and the accused were family friends. The accused was interested in marrying the victim but she turned down his proposal. In the year 2000, she got married to Mr. Jaichand Prajapathi whom she loved.
- However, the marriage of the victim ended up in divorce in 2003. This opportunity was used by the accused and he started contacting the victim once again with his desire to marry her. But he was again rejected by her and her family. After which the accused started contacting the victim via texts and late-night calls. The victim also blocked calls from the accused.
- The accused started harassing the victim in the online platform, he posted defamatory messages about the victim in yahoo messenger groups. On 9th February, the victim noticed 2 obscene emails posted under her name. The accused posted it in the online platform about the victim's contact details by opening a fake email account and he portrayed her as a person soliciting for sex work. The obscene message was posted under a user name “Roosen”.

- She started receiving several obscene phone calls from unknown men and some calls were made to her office. After her parents came to know about this, they started suspecting the accused and they filed a complaint on 14th February 2004 in Central Crime Branch.
- The Assistant Commissioner of Police started the investigation and they managed to find two I.P. addresses that belonged to a cyber café located in Mumbai. The investigation officer filed the F.I.R. on 20th February 2004. The accused was arrested and brought to Chennai in the next few days from the filing of the complaint.

Charges:

- Section 67 – Information Technology Act, 2000
- Section 469 and Section 509 of Indian Penal Code, 1860

Issues

1. Whether the accused is liable for harming reputation by forgery as per Section 469 of the Indian Penal Code?
2. Whether the accused has insulted the modesty of women by word, gesture, or act as per Section 509 of Indian Penal Code?
3. Whether the accused is liable under Section 67 of Information Technology, 2000?

Arguments in favor of the Complainant

- The material published and transmitted by the accused is equivalent to defamation against the victim. The material appeals to be of prurient interest and tends to corrupt the person affected. The electronic document under Section 65B of the Indian Evidence Act is the supporting evidence for the contention.
- The victim's name was given without her consent, this is considered as forgery under the Indian Penal Code. It also affects the reputation of the person so mentioned. The victim's contact details were misused by the accused and due to that, she received many obscene calls.

- The acts of accused by creating a fake account and sending obscene messages have insulted the modesty of women by word, gesture, and act. The acts of the accused had been witnessed by the cyber cafe owners.

Arguments in favor of the Respondent

- The offending emails would have been sent by the victim's ex-husband.
- The mails would have been created by the complainant herself to implicate the accused.
- Some of the electronic evidence is not sustainable under Section 65B of the Indian Evidence Act.

Application

Issue 1: Whether the accused is liable for harming reputation by forgery as per Section 469 of the Indian Penal Code?

When a person writes someone else's name under the message then it is perceived that that person has sent the message. The act of writing someone else's name intentionally under a message is considered as forgery under the Indian Penal Code. As per section 469 of Indian Penal Code, whoever commits forgery intentionally which affects the reputation of a person then they shall be punished with imprisonment for 3 years or shall be liable to fine. In this case, the accused has used the victim's name without her consent and created a fake mail account. The details of the victim were posted and exposed her as a solicitor. This had affected the victim's reputation and she had received many obscene calls due to the forged act of the accused.

Issue 2: Whether the accused has insulted the modesty of women by word, gesture, or act as per Section 509 of Indian Penal Code?

The victim has been portrayed by the accused as a solicitor without her consent, so she received obscene mails and calls. This act of the accused has completely affected the modesty of women. The accused also transmitted mails which insulted her modesty. If any person intrudes the privacy of a woman and insults her modesty then he may be punished under Section 509 of Indian Penal Code for simple imprisonment of 1 year or fine or with both.

Issue 3: Whether the accused is liable under Section 67 of Information Technology, 2000?

Any obscene material published or transmitted in any electronic form is punishable under Section 67 of the Indian Penal Code. The person who publish such material in prurient interest and tends to deprive the person in any circumstance then he may be punished with imprisonment which may extend to 3 years and fine to five lakh rupees. If there is any subsequent conviction then imprisonment may extend to 5 years and fine to ten lakh rupees. In this case, the accused has transmitted and published obscene materials with prurient interest and tends to deprive the victim.

Judgment

The Additional Chief Metropolitan Magistrate, Egmore passed the order holding the accused guilty for offences under Section 469, 509 of Indian Penal Code, and 67 of Information Technology Act 2000. All sentences would run concurrently:

- Under Section 469 of Indian Penal Code- The accused was sentenced for rigorous imprisonment of 2 years and to pay fine of Rs.500/-
- Under Section 509 of Indian Penal Code- The accused was sentenced for simple imprisonment of 1 year and to pay fine of Rs.500/-
- Under Section 67 of the Information Technology Act - The accused was sentenced for rigorous imprisonment of 2 years and to pay fine of Rs.4000/-

Case Laws Referred

Linga Bhaskar and Ors. v. The State and Ors.¹

Sharat Babu Digumarti v. Govt. of NCT of Delhi²

R. Arun and Ors. v. Inspector of Police, Thiruppur North Police Station, and Ors.³

Personal Comments

¹ (05.06.2018 - MADHC) : MANU/TN/2474/2018

² (14.12.2016 - SC): MANU/SC/1592/2016

³ (14.11.2017 - MADHC): MANU/TN/4760/2017.

The order of the Court was convincing in all sense even though there were certain lacunae found in the existing laws. This judgment has paved the way for others to come up freely and lodge a complaint about such acts in electronic media. This was the first case in India to be filed under Information Technology Act. The punishment given for the accused has shown the positive sides of cyber law. This case has brought the stringent laws of the Information Technology Act into power. It has helped bit courts and the public. Harassment on the internet sites which was concealed before was brought into light.



• LEGAL FOXES •

"OUR MISSION YOUR SUCCESS"