

Court No. - 93

Case :- APPLICATION U/S 482 No. - 40252 of 2018

Applicant :- Haji Iqbal Beg (Zila Sanyukt Sachiv) And 2 Ors

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ved Prakash Ojha, Hanuman Prasad Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Ved Prakash Ojha and Sri Hanuman Prasad Kushwaha, learned counsel appearing for the applicants and Sri Raj Bahadur Verma, learned A.G.A. for the State.

2. The present 482 Cr.P.C., application has been filed for quashing the proceedings arising out of Case No. 1839 of 2018, under Section 500 I.P.C., Police Station Kotwali, District Lalitpur pending before learned Chief Judicial Magistrate, Lalitpur including the summoning order dated 10.9.2018.

3. Contention of learned counsel for the applicants is that the impugned proceeding was initiated against the applicants only on the ground that the applicants made a complaint to the Superintendent of Police, Lalitpur against opposite party No.2 with an allegation that he did not read out the notification dated 7.2.2018 of the District Magistrate for inviting the name of Sunni Muslims to manage the affairs of Waqf of Majar Hajrat Baba Sadanshah, Lalitpur. It is further submitted that from perusal of the complaint as well as statements recorded u/s 200 & 202 Cr.P.C., no offence u/s 500 I.P.C. is made out.

4. On perusal of the complaint as well as statement of opposite party No.2, it is clear that the impugned complaint was filed only on the ground that the applicants had submitted an application to the Superintendent of Police, Lalitpur that the opposite party No.2 who was the Imam of the Masjid situated at Police Lines, Lalitpur, did not read out the notification of the District Magistrate under the fear of some of the land mafias. For making out a case u/s 500 I.P.C., allegation must have ingredients mentioned in Section 499 I.P.C. which requires that the allegation or imputation must be of such nature which directly or indirectly, in the stimulation of others, lowers the moral or intellectual character of that person. Section 499 I.P.C. is being quoted as below:-

"499. Defamation.- Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning

a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

First Exception.—**Imputation of truth which public good requires to be made or published.**—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. Whether or not it is for the public good is a question of fact.

Second Exception.—**Public conduct of public servants.**—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.

Third Exception.—**Conduct of any person touching any public question.**—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Fourth Exception.—**Publication of reports of proceedings of courts.**—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.—**Merits of case decided in Court or conduct of witnesses and others concerned.**—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Sixth Exception.—**Merits of public performance.**—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Seventh Exception.—**Censure passed in good faith by person having lawful authority over another.**—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Eighth Exception.—Accusation preferred in good faith to authorised person.—
It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception.—Imputation made in good faith by person for protection of his or other's interests.—
It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Tenth Exception.—Caution intended for good of person to whom conveyed or for public good.—
It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good."

5. From perusal of the Section 499 I.P.C., it is clear that its exception 8 & 9 provide that if accusation is made in good faith to an authorized person that will not amount to defamation. It is also clear from perusal of Section 499 I.P.C. that if the words in question, make or publish with intention to harm the reputation of any person, only then it would come within defamation. Therefore, simply making complaint to high official without any intention to harm the reputation of the said person will not come within the definition of defamation.

6. In the present case, admittedly a masjid was situated at Police Lines, Lalitpur and complaint was made to the S.P. Lalitpur who was the authorised person as mentioned in Exception 8 of Section 499 I.P.C. Even from the statement of opposite party No.2 as well as witness Haji Abdul Sayeed, the allegations were that on the basis of application/complaint of the applicant, R.I. of the Police Lines conducted an enquiry and asked several questions from opposite party No.2 which lowered his reputation.

7. This Court is of the view that above allegations do not fall in the category of defamation as mentioned in Section 499 I.P.C. In view of the above, proceeding of Case No. 1839 of 2018, under Section 500 I.P.C., Police Station Kotwali, District Lalitpur, pending in the court of C.J.M., Lalitpur, is hereby quashed.

8. Accordingly, the application is **allowed**.

Order Date :- 31.10.2023
Vandana