

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 649 of 2015

Vishal Jindal S/o Shri Vijay Kumar Jindal Aged About 30 years
Occupation- Business, R/o 45 Jindal Niwas Deshmukh Marg Dhantoli,
P.S.- Dhantoli, Civil And Revenue District- Nagpur (Maharashtra)

---- Petitioner

Versus

1. Ramniwas S/o Late Shri Changamal Mada Aged About 55 Years
Occupation- Business, R/o Baikunthpur Ward No.14, Raigarh,
P.S.- Kotwali, Civil And Revenue District- Raigarh, Chhattisgarh
2. State Of Chhattisgarh Through: The District Magistrate Raigarh,
District- Raigarh, Chhattisgarh

---- Respondents

For Petitioner – Shri Sunil Sahu, Advocate.
For Respondent No.1 – Shri Sourabh Sharma with Shri Tarkeshwar
Nande, Advocate.
For Respondent No.2/State – Shri Arvind Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/07/2015

1. Heard.
2. Challenge in this petition is to the order dated 16/04/2015 passed in Criminal Revision No.124/2012 by the learned court of Special Judge, Raigarh. In such revision the order dated 29/05/2012 was subject of challenge which was passed in Criminal Complaint Case No.629/2012 by the Chief Judicial Magistrate, Raigargh in between Ramniwas Moda Vs. Vishal Jindal the petitioner. Reading

facts in order of revision would reveal that the petitioner was married to the daughter of Ramniwas the respondent No.1 herein and subsequently a suit for divorce was also filed. In a suit for divorce, the daughter of the respondent appeared in suit instituted at Nagpur and another case was registered by the daughter of the respondent under Domestic Violence Act at Raigarh against petitioner.

3. Petitioner has enclosed copy of the complaint filed by Ramniwas against the petitioner under Section 500, 504 and 506 of IPC. In the complaint it is stated that on 8/03/2012 a paper publication was made in Dainik Bhaskar news paper, Bilaspur and Raigarh edition wherein at page 7 under the word captioned Savdhan (सावधान) a publication was made in order to defame the complainant that for any act done by the daughter of complainant/respondent Ramniwas i.e. Pooja Jindal the petitioner Vishal Jindal shall not be responsible. Similar another publication was also made on 11/03/2012 in Dainik Nav Bharat news paper, Bilaspur edition wherein at page 7 under the word captioned Savdhan (सावधान) name of the complainant Ramniwas was published and along with that name of his daughter Pooja Moda (Jindal) was also published and it was stated that for any act done by Pooja Moda (Jindal), Vishal Jindal would not be responsible. It is stated that the said publication were made in order to defame the respondent in their society as also in the business community. It is stated that

papers are being circulated all over the area and consequently after circulation of the paper, people started enquiring and it leads to defamation. In the complaint, it was further contended that false allegations were levelled with only sole idea to defame family of the respondent and after such publication, they were subjected to harassment and humiliation in the society as people started enquiring because the word 'Savdan' was used.

4. On the basis of the complaint so filed, learned court of Chief Judicial Magistrate, Raigarh took cognizance and issued summons to the petitioner Vishal Jindal, son of Vijay Kumar Jindal. The said issuance of notice was subject of Criminal Revision No. 124/2012 before the court of Special Judge, Raigarh and the court of Special Judge, Raigarh by order dated 16/04/2015 dismissed the revision preferred by the petitioner. Hence, this petition.

5. Learned counsel for the petitioner submits that no notice was served to him by the respondent before filing complaint under section 500, 504 and 506 of IPC and it was further stated that editor of the concerned news paper has not been examined so as to substantiate that article published was at the instance of the petitioner. He further submits that article published was with respect to Pooja Jindal and consequently Ramniwas do not have any right to file any complaint.

6. Per contra, learned State counsel and learned counsel for respondent No.1 vehemently opposes the same and submits that at

this stage of hearing, the exercise of power under section 482 of Cr.P.C. is uncalled for.

7. I have heard learned for the parties at length, perused the documents.

8. Petitioner has filed the copy of complaint wherein averments have been made that on 8/03/2012 a publication was made in Dainik Bhaskar news paper, Bilaspur and Raigarh edition with heading captioned as Savdhan (सावधान) and likewise on 11/03/2012 another publication was made in Dainik Nav Bharat news paper, Bilaspur edition with heading captioned as Savdhan (सावधान) and the complaint further reveals that it was stated that the petitioner would not be responsible for any act done by Pooja Moda (Jindal) and it further states that the publication was made only with an intention to defame the respondent. Copy of the statement is also been enclosed along with the petition wherein statement of Ramniwas complainant and one Santosh Agrawal is enclosed. In such statement, the complainant has stated that because of the publication made in news paper with use of word Savdan they were subjected to humiliation before the society and public at large and people started to make query from them. It is also stated that they have not done any act to make people caution.

9. After going through the complaint and the statement in order to exercise the power under Section 482 of Cr.P.C. question which

comes for consideration as to whether on the facts available whether can be termed as groundless. On reading the statement of the complainant, it appears that enough ground exists for the Magistrate to form its opinion to take cognizance. Undoubtedly, publication made with a caption Savdhan is to caution the public at large against whom it is made. Defence of the accused cannot be considered at this stage. Prima facie after going through the document, it appears that both the court below i.e. court taking cognizance as also revisional court has not exceeded its jurisdiction or failed to exercise its jurisdiction vested in it which warrants exercise of power under Section 482 of Cr.P.C.

10. Consequently, in the facts of the case, prima facie I am not convinced so as to invoke jurisdiction of this court vested in it under Section 482 of Cr.P.C. In a result, petition stands dismissed at motion hearing itself.

Sd/-
(Goutam Bhaduri)
JUDGE