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HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 347 OF 2016

Sevaram, S/o Ramdul, caste Halba, aged about 55 years, R/o Village Khamtarai, Police Station- Deori, Tahsil- Daundilohara, District Balod (C.G.)

... Petitioner

Versus

1. Nartu Ram, S/o Ramadhin, aged about 40 years, caste Teli, R/o Village Khamtarai, Police Station Deori, Tahsil Daundilohara, District Balod (C.G.)
2. State of Chhattisgarh, through District Magistrate Balod, District Balod (C.G.)

... Respondents

For Petitioner	:	Mr. N.S. Dhurandhar, Advocate.
For Respondent 1	:	Mr. J.K. Gupta, Advocate.
For Respondent 2	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/06/2016

1. The present Criminal Misc. Petition has been filed under Section 378(4) of CrPC seeking leave to appeal against the judgment of acquittal dated 7.12.2015 passed by the Judicial Magistrate First Class, Daundilohara, District Balod in Criminal Complaint Case No. 187 of 2013.
2. Facts relevant for the disposal of the case are that the Petitioner who was the Complainant before the Court below had filed a case against Respondent No.1 for the offence under Section 500 IPC for an alleged act which according to the Petitioner has defamed the Petitioner.
3. As per the Complainant, on 25.3.2012 in the evening at around 5:00 pm during the course of the inauguration of Kala Manch at Village Khamtarai under Police Station Deori, Tahsil Daundilohara, District Balod, in one of the speeches the Respondent No.1, Nartu Ram, had made certain observations in respect of the Petitioner who was the Sarpanch of

the said village. According to the Complainant, the Respondent No.1 in his speech has referred the Petitioner to be a non-performer and that he had not even attended the inaugural function of the Khamtarai and that the Respondent No.1 had passed a remark as to who made the Petitioner/Complainant the Sarpanch of the village, he is not eligible for a Sarpanch and that he should go and die in a handful of water. This speech of Respondent No.1 and the remarks made by Respondent No.1 against the Petitioner has highly defamed the Petitioner in the society and because of the said speech his image and prestige has got lowered. Therefore a complaint was lodged against Respondent No.1 for the offence under Section 500 IPC. The said complaint case was registered as Criminal Complaint Case No. 187 of 2013 against Respondent No.1 for the said offence.

4. The Trial Court after the conclusion of the evidence finally vide its judgment dated 7.12.2015 found the Respondent No.1 not guilty of the offence under Section 500 IPC and accordingly acquitted him of the said charge which was levelled against him.

5. It is this order dated 7.12.2015 which has been questioned and challenged in the present Criminal Misc. Petition.

6. According to the Counsel for the Applicant, the Court below has committed grave error both on facts and in law to the extent that the Court below failed to appreciate the fact that the Petitioner being the Sarpanch of the said village Khamtarai had a commanding image and prestige among the villager and it was by virtue of his commanding image and prestige that he had been elected as the Sarpanch of the said village and while serving the villager in the capacity of Sarpanch, the Respondent No.1 while making a public address made certain loose remarks against the Petitioner firstly in respect of his being a non-performer and secondly

asking the Petitioner through the public address to go and die in a handful of water. This has lowered the image of the Petitioner and has also casted a cloud over his prestige. Considering the stature of the Petitioner being that of a Sarpanch, the Court below ought to have believed the statement of the witnesses adduced on behalf of the Complainant and should have convicted the Respondent No.1.

7. A perusal of the impugned order would clearly indicate that the Court below had in fact taken into consideration the evidence which has come on record and while appreciating the evidence the Court found that the Petitioner has not been able to establish as to how the position of the Petitioner being a Sarpanch has been defamed and how his image and prestige in the society also has been got lowered because of the public speech made by Respondent No.1 in addition to the fact that the Petitioner was not present in the meeting.

8. Considering the nature of evidence and the admitted fact that the only allegation against Respondent No.1 is that in a public speech made where the Complainant himself was not present, the Respondent No.1 had made a remark of the Petitioner being a non-performer in the capacity of a Sarpanch and therefore he should go and die, by itself in the opinion of this Court would not constitute an act of defamation on the part of Respondent No.1 taking into consideration the ingredients necessary for defamation as defined under Section 499 IPC. The alleged words used by the Respondent No.1 under no circumstances can be said to have lowered the moral and intellectual character of the Petitioner neither does it lower the credit of the Petitioner causing disgrace to the Petitioner and his family. If we take into consideration the Indian political scenario, the words used by Respondent No.1 in the public address is a common phenomenon in the prevailing Indian political culture where every public

servant is accused of non-performance by some quarter of people. Only because the Respondent No.1 had made a statement of the Petitioner being a non-performer by itself would not constitute words spoken with an intention to harm the reputation of such person under Section 499 IPC so as to constitute defamation. In the opinion of this Court, there is no illegality or perversity in the findings arrived at by the Court below by acquitting the Respondent No.1 from the charge under Section 500 IPC.

9. The Criminal Misc. Petition being devoid of merits, the same is dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/