

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 554 OF 2016

Shiva Ram S/o Aghnuram, aged about 50 years, R/o Bhaghamuda, Police Station Palari and Tahsil- Pandaria, Civil and Revenue District- Kabirdham (C.G.)

... Applicant

Versus

Panchram Jaiswal, S/o Pahari Jaiswal, aged about 52 years, R/o Bhaghamuda, Post- Chilfi (Bangla), Tahsil Pandaria, Civil and Revenue District- Kabirdham (C.G.)

... Non-applicant

For Applicant : Mr. Yogeshwar Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/06/2016

1. Heard on I.A. No.1 of 2016, which is application for condonation of delay in filing the present Criminal Misc. Petition.
2. The record shows that the present Criminal Misc. Petition under Section 378(4) of CrPC has been filed with a delay of 190 days.
3. The present petition has been preferred by the Applicant/Complainant against the order of acquittal passed by the Judicial Magistrate First Class, Pandaria, District Kabirdham, dated 21.8.2015, in an unregistered Criminal Case.
4. Learned Counsel for the Applicant/Complainant submits initially he had preferred a petition under Section 482 of CrPC, which was registered as Criminal Misc. Petition No. 977 of 2015, against the impugned order dated 21.8.2015 but later on it was withdrawn on the ground that the said petition under Section 482 of CrPC would not be maintainable and he would have to prefer an application under Section 378(4) of CrPC and in the process delay took place.

5. Considering the reasons shown by the Applicant/Complainant in filing the I.A. No.1 and finding them to be satisfactory, the delay of 190 days in filing the present Criminal Misc. Petition against the acquittal is condoned.

6. By way of the impugned order dated 21.8.2015, the Court below has dismissed the complaint filed by the Applicant/Complainant seeking for registration of a case against the Respondent for the offence under Sections 323, 294, 506 (Part-II) of IPC and also under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

7. Learned Counsel for the Applicant/Complainant submits that the Court below has failed to appreciate the fact that the Applicant/Complainant as well as the other witnesses who were examined before the Court below at the time of registration of the complaint had given sufficient indication of prima facie offence having been made out against the Respondent and on the basis of the said averments the Court below ought to have ordered for registration of the complaint rather the Court below rejected it at the threshold ignoring the statements of the witnesses examined at the time of filing of complaint.

8. A perusal of the record would show that the Applicant/Complainant, Shiva Ram, was the first witness who has been examined and in his entire evidence except for one instance of an allegation levelled against the Respondent of calling him 'chamra' and a vague allegation of being abused by the Respondent, there is no specific details given by the Applicant/Complainant so far as the nature of abuses given by the Respondent to the Applicant/Complainant neither has he been able to establish himself before the Court below that he belongs to Reserved category. Further, from the statement it is also very clear that there was no

allegation of any assault of any nature given by the Respondent to the Applicant/Complainant. Except for the bald allegation of the Respondent calling him 'chamra' and abusing him, there has been no specific details provided by the Applicant/Complainant.

9. The record also shows that the Complainant Witness No.2, Rohit Kumar so also the Complainant Witness No.3, Babulal also have not been able to give any evidence so far as the allegations levelled by the Applicant/Complainant in his complaint. So far as the reliance of the Counsel for the Applicant/Complainant on the statement of Complainant Witness No.4, Satish is concerned, the fact which has to be taken note is that the said witness Satish is the son of the Applicant/Complainant, Shiva Ram, and that the facts which are reflected in the statement of Satish do not find place in the statement of the Applicant/Complainant and as such there are material contradictions.

10. Considering the above given factual position, this Court is of the opinion that the Court below has not committed any error while rejecting the complaint filed by the Applicant/Complainant. In the absence of any specific details in the statements of the complainant and the witnesses recorded at the time of filing of the complaint seeking registration of the complaint, in the considered view of this Court, no good case is made out for interference with the impugned order.

11. The Criminal Misc. Petition being devoid of merits is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge