

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 1166 of 2015**

Smt. Usha Thakur W/o Harendra Singh Thakur Aged About 38 Years R/o Village Balud, Tahsil & P.S. Dantewada, Distt. Dantewada, Chhattisgarh.

---- Petitioner**Versus**

1. Smt. Kamla Kailashiya, aged About 48 Years R/o Munshiyo Ka Mohalla, Brighet Ke Piche, Lakhadkhana Laskar, Gwalior, Madhya Pradesh. Present Address Anand Jhitotiya, Shiv Chaya Apartment, Laskar, Gwalior, Madhya Pradesh.
2. State of Chhattisgarh Through District Magistrate, Dantewada, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Rajendra Patel, Advocate.
For Respondent No.1	:	Shri Vimlesh Bajpai, Advocate.
For respondent No.2	:	Shri UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/09/2016**

1. The present petition under Section 482 Cr.P.C. has been preferred by the petitioner assailing the order dated 12.10.2015 passed by the IInd Additional Sessions Judge, Dantewada, in Criminal Revision No.10/2015.
2. The relevant facts for adjudication of the present dispute is that, the petitioner herein had filed a complaint case against the respondent No.1 on 21.03.2012 before the Chief Judicial Magistrate, Dantewada for registration of offence under Sections 499 and 500 of IPC. The said complaint was initially registered as Criminal Case No.211 of 2014 by

the JMFC, Dantewada on 22.03.2012. Subsequently, charge sheet was also framed on 04.04.2015 whereby the charge of offence under Section 500 IPC was also framed against the respondent No.1. This framing of charge vide order dated 04.04.2015 was put to challenge by way of revision petition by the respondent No.1 before the court of IInd Additional Sessions Judge which was registered as Criminal Revision No.10 of 2015. The revisional court, vide order impugned dated 12.10.2015 allowed the revision petition holding that taking into consideration the nature of allegations levelled and when the records are perused it is established that offence of defamation as lodged by the petitioner herein is not made out for the reason that the petitioner complainant had not been able to establish from the evidence which have been adduced before the registration of the complaint and also from the pleadings that she intends to rely on, establishes the ingredients required for making out a case under Section 500 IPC as per the definition of defamation Section 499 IPC.

3. Learned counsel appearing for the petitioner submits that it is a case where the respondent No.1 Smt. Kamla Kailashiya was having some family dispute with her Husband J.S. Kailashiya and in the litigation that took place between the respondent No.1 with her Husband, there was reference of a lady with whom the respondent No.1 was alleged to have illicit relationship. It is alleged that the said lady's name was one Usha.
4. The present petitioner, in her complaint has stated that it is her name which has been dragged by the respondent No.1 in the series of

litigation that the respondent No.1 had with her Husband and this dragging of her name in the various litigations from the Magistrate Court till the stage of Supreme Court has lowered down her image which she was enjoying in the society and in the social life. According to the petitioner her name has been dragged due to family dispute with the respondent No.1.

5. According to the petitioner, the revisional court ought to have considered the fact that the name of the petitioner has been unnecessarily been dragged which had caused defamation, and therefore, the court below i.e. Chief Judicial Magistrate was justified in registering the complaint at the first instance and thereby framed a charge under Section 500 IPC. Therefore, the revisional court should not have entertained the revision and ought to have rejected the same at threshold.
6. Learned counsel appearing for the respondent No.1 opposing the petition submits that the order passed by the revisional court on 12.10.2015 is just, proper and a speaking order and does not warrant any interference of this court. According to him, the revisional court has gone into the merits of the case and have rightly reached to the conclusion that the petitioner in her complaint or in her statement has not been able to establish the ingredients which are otherwise required for brining home the offence under Section 500 IPC.
7. Learned counsel for the State adopted the same argument advanced by the counsel for the respondent No.1.
8. Having heard the rival contentions put forth by the either side and on

perusal of record, what is clearly reflected is the fact that the only piece of allegation which the petitioner is alleged is that in the dispute which the respondent No.1 was having with her Husband, the name of petitioner is being dragged in the litigation and the allegation is that the Husband of respondent No.1 was having some illicit relationship with the petitioner. However, a perusal of record clearly reflects that nowhere in the pleadings the complete name of the petitioner i.e. Smt. Usha Thakur is reflected, also showing herself to be wife of Harendra Singh Thakur. Rather it is a case where in all the pleadings, the allegation is that the Husband of respondent No.1 was having an illicit relationship with one Usha. Thus, the bald allegation made in the pleading of the Husband of the respondent No.1 having some relationship with same Usha cannot be construed to be a direct evidence of the petitioner being the person with whom the Husband of respondent No.1 was having an illicit relationship. Neither such a pleadings made in the course of the litigation between the respondent No.1 and her Husband termed to be done with an act deliberately with an intent to defame the person or lower the reputation of such person.

9. Thus, in the opinion of this court, the order passed by the revisional court is just and proper which has been passed taking into consideration the pleadings that were made in the different litigation and the contents of Section 499 IPC.

10. Accordingly, the petition fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge