

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 670 of 2017

- Vijay Dunia, S/o Tarachand Dunia, aged about 45 years, Power of Attorney Holder of M/s Tarachand Ratnesh Kumar Dunia, R/o Guru Gobind Singh Chowk, Kawardha, Distt. Kabeerdham (C.G.)..

---- Petitioner

Versus

1. N.P. Jaiswal, General Manager (Admn.), Bhoramdev Sahkari Shakkar Utpadak Karkhana Maryadit, Kawardha, District Kabeerdham (C.G.).
2. Kamal Narayan Khande, Managing Director, Bhoramdev Sahkari Shakkar Utpadak Karkhana Maryadit, Kawardha, District – Kabeerdham (C.G.)

---- Respondents

For Petitioner : Mr. B.D. Guru, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

19/06/2017

1. The Petitioner's Firm was black listed by Bhoramdev Sahkari Shakkar Utpadak Karkhana Maryadit, Kawardha vide order dated 04/03/2015. The said order was challenged by the Petitioner's firm, M/s Tarachand Ratnesh Kumar Dunia in W.P. (C) No. 593/2015 before the Division Bench of this High Court. The Division Bench by order dated 16/07/2015 was pleased to set-aside the order of blacklisting observing "but that without prejudice to the rights of the respondents afresh in accordance with law, if so advised".

2. After the order of the High Court, the Petitioner's Firm filed a

complaint case under sections 499 & 500 of IPC before the JMFC, Kawardha, for punishing the Respondents. The Trial Magistrate by its order 05/03/2016 took cognizance and registered offence under Sections 499 & 500 of the IPC against the Respondents. The Respondents preferred a criminal revision before the Revisional Court and the Revisional Court allowed the criminal revision stating that such a complaint for offence under Sections 499 & 500 of the IPC is barred by Eighth Exception to Section 499 of the IPC, therefore, order taking cognizance is bad in law.

3. Mr. B.D. Guru, learned counsel for the Petitioner would submit that offence under Sections 499 & 500 of the IPC is made out against the Respondents which is punishable under the law.

4. I have heard counsel for the Petitioner.

5. The Respondents Authorities passed the order of blacklisting against the Petitioner's firm, which was set-aside by the order of Division Bench of this High Court observing as under:-

"The impugned order dated 04/03/2015 in so far as it blacklists the Petitioner is set-aside but without prejudice to the rights of the Respondents afresh in accordance with, if so advised."

6. The writ petition filed by the Petitioner's firm was allowed reserving the rights of the Respondents to proceed afresh in accordance with law.

7. Eighth Exception to Section 499 of the IPC is as under:-

"Eighth Exception.- Accusation preferred in good faith to authorized 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"

8. It is not the case of the Petitioner while filing writ petition that he has been blacklisted mala-fidely or falsely, even otherwise, the High Court has reserved the right of the Respondents to proceed afresh against the

Petitioner.

9. After considering all aspects of the matter and that the Revisional Court has set-aside the order passed by the trial Magistrate, I do not find any illegality or jurisdictional error in the impugned order, the petition under Section 482 of the Code of Criminal Procedure deserves to be dismissed and is accordingly dismissed.

Sd/-
SANJAY K. AGRAWAL
Judge

Rahul