

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1632 of 2017**

- Dr. Ashwini Kumar Dewangan S/o Shri H. P. Dewangan, Aged About 36 Years Assistant Commissioner, Office Of Food And Drug Administration Raipur District Raipur Chhattisgarh

---- Petitioner**Versus**

- M/s Ritesh Atta Chakki Proprietor - Ravi Kumar Ranglani, S/o Shri Gopichand Ranglani, Aged About 45 Years R/o Behind Gujrat Ice Factory, Gogaon, Police Station Gogaon, Tahsil And District Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Shri V.A. Goverdhan, Advocate
For Respondent	:	Shri Prateek Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****20/03/2018**

1. Heard.
2. The instant petition is against the order dated 11.05.2017 whereby the 7th Additional Sessions Judge, Raipur (C.G.) has remanded a complaint filed by the respondent under Section 500 IPC to the trial Court for re-appreciation and evidence with a finding that the act committed by the petitioner whether comes under the official duty or not to be examined and further has observed that the liberty be given to the respondent/complainant to lead further evidence.
3. Brief facts of this case are that the petitioner in capacity of Food Safety Officer raided the shop of respondent on 07.04.2015 and seized 2K.G. sample of Gram Flour and entire factory was sealed. Subsequently, the

sample was sent for chemical examination and the report came on 21.04.2015, which revealed that there was no adulteration in the sample. Subsequently, the factory was reopened. It is alleged that on 07.04.2015 after the factory was sealed, the petitioner posted this facts on social site i.e. on Facebook and false publication was made, thereby the reputation of the respondent was maligned. Consequently, being aggrieved by the said act, a complaint was filed by the respondent under Section 500 IPC against the petitioner and JMFC, Raipur dismissed the complaint on the ground that permission under Section 197 Cr.P.C. was not obtained as such the act done by the petitioner was in official capacity, therefore, the complaint was dismissed. The respondent herein challenged the same before the Sessions Judge in a revision and the 7th Additional Sessions Judge passed order dated 11.05.2017 remanded the case and set aside the order of the JMFC and further observed that the respondent be given liberty to lead further evidence and the petitioner herein has challenged the remand order.

4. It is contended that the averments of complaint filed under Section 500 IPC do not disclose the fact that it was published in the social site, more so, the remand if any was made, the revisional Court exceeded its jurisdiction by giving opportunity to lead further evidence to the respondent/complainant. It is further stated that the witness so examined have not deposed that they have seen the facebook, therefore, presumption cannot be made that the defamation was made in the social media and the ingredients of Section 499 Explanation 4 of the IPC has not been satisfied as the imputation was not proved that it lowers down the reputation in the estimation of others.
5. Perused the order of the revisional Court. The revisional Court has observed that the petitioner though was entitled to seize the goods in exercise of his official act but such action should not have been made public

in the social site/Facebook and should not have been published in the newspaper in the like way and the same cannot be said to be in the official discharge of his duty. In the opinion of this Court also the petitioner was certainly within his right to exercise his official act to seize the samples from the shop and could have taken the actions in furtherance of the statute of the Food Safety and Standards Act, 2006 (for short 'the Act, 2006') but the publication of the same on the social media should not be done and it cannot be said that it was within the official act. It is not in dispute that after the sample was collected and factory was sealed, the said act was published in the social media but whether the witness have gone through the same is a matter of evidence.

6. The facts which are available on record if are considered it leads to form an opinion that the Court on the hyper-technical ground cannot avoid to look into the allegations to discard the same at the threshold and when the revisional Court has remanded the case for further evidence, it would be open for the parties to lead evidence before the JMFC before whom the petition is pending. No prejudice would be caused at this stage to the petitioner and he would always be at liberty to cross-examine the witnesses to prove his defense. Under the facts & circumstances, I do not find any illegality in the order of the revisional Court dated 11.05.2017.
7. With such observation the petition stands disposed of. Any observation made by this Court in this petition shall not be considered as an opinion expressed by this Court.

Sd/-
Goutam Bhaduri
Judge

Ashu