

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 170 of 2018**

- K. M Babu S/o Shri K. M. Menvel Aged About 47 Years Editor / Owner / Publisher Of Weekly News Paper Samarpan Bhoomi (Published From Korba) In Front Of Govt. College Kosabadi, Korba Police Station Rampur Tahsil Korba Civil And Revenue District Korba Chhattisgarh

---- **Petitioner****Versus**

- Anik Khokhar S/o Shri M. S. K. Khokhar Aged About 48 Years Occupation Advocate, R/o North Chakradhar Nagar, Raigarh Police Station Chakradhar Nagar Raigarh Civil And Revenue District Raigarh Chhattisgarh

---- **Respondent**

For Petitioner : Shri P.M. Shriwas, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****29/01/2018**

1. Heard.
2. The instant petition is against the proceedings of a criminal complaint bearing No.1344/2013, pending before the JMFC, Raigarh, which has been filed by the complainant/respondent Anil Khokhar under Section 200 of the Cr.P.C., whereby the complaint under Section 500, 501 & 502 of the I.P.C. has been made.
3. Learned counsel for the petitioner would submit that the petitioner is the editor of a weekly news-paper Samarpan Bhumi and no defamation has been caused as the complainant Anil Khokhar who is the relative of the person against whom the complaint was made was working in the government department and the case would fall under the second exception

of Section 499 I.P.C. and it cannot be said to have caused any defamation.

4. Perused the complaint filed by the respondent under Section 500, 501 & 502 of the I.P.C. The second exception to Section 499 IPC reads as under:-

“Second Exception.—Public conduct of public servants.—It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.”

5. On perusal of the complaint, I do not find that prima facie the case would fall under the second exception. Further even if the facts are existing in favour of the petitioner, the same cannot be adjudicated by reading of the complaint alone. It is for the trial Court to adjudicate the facts after the evidence adduced before it. At this stage, in the considered opinion of this Court, the instant petition is premature and it will amount to give a finding at the primary stage without any evidence on record.
6. Considering the facts of this case, I am not inclined to interfere by taking cognizance at this stage. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri

Judge

Ashu