

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1367 of 2018

Sandeep Kumar Jagatramka S/o Shri Suresh Kumar Jagatramka
Aged About 34 Years R/o Gandhi Chauk, Raigarh Tahsil And Police
Station Raigarh District Raigarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through District Magistrate Raigarh
District Raigarh Chhattisgarh.
2. Mohd. Jakir Hussain S/o Shri A.M. Kadir, Aged About 42 Years
R/o Ward No. 14, Sarafa Market Varasiwani District Balaghat (M.P.)

---- Respondents

For petitioner - Shri M.K. Sinha, Advocate.
For State- Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

19/07/2018

Heard.

1. Instant petition is against the order dated 23/06/2018 passed in Criminal Revision No.70/2018 by the Second Additional Sessions Judge, Raigarh. By such order, order of the Judicial Magistrate wherein complaint was filed under section 200 of Cr.P.C. against respondent No.2 was dismissed.
2. Facts as would show that respondent No.2 is an advocate served a notice to the petitioner on behalf of his wife Aditi Agrawal. It is stated that the petitioner was married on 1/02/2017 to Aditi Agrawal at Raigarh. Thereafter, she went alongwith her brother to her maternal home on 27/07/2017 and on 23/08/2017 the petitioner was served with a notice by the present respondent No.2 wherein it was alleged that the petitioner is impotent and unable to perform matrimonial obligation and certain facts were disclosed. Being aggrieved by such contents of notice complaint was filed alleging that allegation so made tarnishes and defames the image of

petitioner. Thereby, offence has been committed.

3. Perused the notice which shows that notice was served under the instructions of wife of the petitioner. Respondent No.2 was acting as an advocate and allegation have been primarily attributed that the petitioner is impotent and petitioner was called upon to file a petition under section 13(B) of the Hindu Marriage Act and other gift which was given during the marriage were also called back. Perusal of the notice would show that it was served on instructions of the wife of the petitioner and more so if ground of impotency has been urged then it is valid ground for claiming divorce under the Hindu Marriage Act. In any case, respondent No.2 was acting on behalf of his client and under her instructions. Therefore, it would be a communication which was given would be served under section 126 of the Evidence Act. Prima facie impotency recognizes ground of divorce under the Hindu Marriage Act. If notice have been served on that ground, advocate cannot be stated to have committed any defamation.

4. Accordingly, petition has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE