

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 489 of 2018

Arising Out of Compliant Case No.-1524 Year-2007 Thana- GOPALGANJ COMPLAINT
CASE District- Gopalganj

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Dileep Kumar Singh Son of Ganesh Singh, Resident of Village- Koeni, Police Station- Manjhagarh, District- Gopalganj (Bihar). At present resident of Mohalla- Kaithwaliya Wards no. 17 near Biscomaun Godam, Police Station- Gopalganj, District- Gopalganj (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Prashant Kumar Rai, son of Late Ramayan Rai,
Resident of Mohalla-Kaithwaliya wards no. 17 near Biscomaun Godam,
Police Station- Gopalganj, District- Gopalganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Singh, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP
For the O.P.	:	Mr. Dhananjay Kumar Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 18-07-2019

Heard learned counsel for the petitioner; learned APP for the State and learned counsel for the opposite party no. 2.

2. The petitioner has moved the Court under Sections 397 and 401 of the Code of Criminal Procedure, 1973 for quashing of the judgment and order dated 22.02.2018 passed in Criminal Appeal No. 102 of 2016 (CIS No. 102 of 2016) by the



Additional Sessions Judge, VIII, Gopalganj by which he has dismissed the appeal with modification in the judgment and order of sentence and conviction dated 29.06.2016 passed by the Additional Chief Judicial Magistrate, IV Gopalganj in Complaint Case No. 1524 of 2007 (Registration No. 4074 of 2016) by which the sentence under Section 500 of the Indian Penal Code for undergoing two years imprisonment and Rs. 5,000/- fine has been modified to payment of Rs. 20,000/- as compensation by the petitioner and for furnishing probation bond of Rs. 5,000/- for good conduct for a period of two years.

3. The petitioner had filed Complaint Case No. 1929 of 2006 against the opposite party no. 2, his wife and mother under Sections 302/34 of the Indian Penal Code alleging that they had killed the husband of the maternal uncle of the petitioner. The said news was published in the local daily newspaper '*Danik Jagran*' on 06.12.2006. The complaint case filed by the petitioner was ultimately dismissed. The opposite party no. 2 then filed the present complaint case alleging defamation which upon trial resulted in a judgment and order of conviction and sentence and the appeal filed by the petitioner was also dismissed with modification in the sentence.



4. Learned counsel for the petitioner submitted that first of all the publication in the newspaper was neither by the petitioner nor at his behest and, thus, he was not instrumental in any way in making public the filing of the complaint case filed by him. Further, it was submitted that a *bona fide* cause before a Court of law even if dismissed would not give a cause of action, much less under Sections 499/500 of the Indian Penal Code for defamation to the aggrieved for the same cannot be stretched to bring it under the ambit of the definition of defamation under Section 499 of the Indian Penal Code. It was submitted that at best, the remedy available to the opposite party was to file complaint under Sections 182 and 211 of the Indian Penal Code for lodging of false information and making false charge. It was further submitted that the reporter and the publication not having been made party, the petitioner could not straightaway be charged under Section 500 of the Indian Penal Code. Learned counsel submitted that even in the definition of defamation under Section 499 of the Indian Penal Code, the Fourth exception is with regard to publication of reports of proceedings of Courts. It was submitted that the complaint case being filed in the Court would thus be covered under such Fourth exception.



5. Learned APP fairly submitted that the conviction under Section 500 of the Indian Penal Code is not justified in the facts and circumstances of the present case.

6. Learned counsel for the opposite party no. 2 was also not in a position to defend the orders impugned or filing of the complaint case by the opposite party no. 2.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the orders of the trial Court as well as the appellate Court cannot be sustained in law.

8. The Court finds substance in the contention of learned counsel for the petitioner that the complaint case itself was misconceived as it was not the petitioner who had got any article printed in the newspaper. Further and more importantly, even the newspaper report was with regard to the fact of a complaint case being filed by the petitioner against the opposite party no. 2 and his other family members. Such reporting of a correct fact cannot be brought into the ambit of the definition of Section 499 of the Indian Penal Code so as to make such act punishable under Section 500 of the Indian Penal Code.

9. For reasons aforesaid, the application is allowed. The judgment and orders dated 22.02.2018 passed in Cr. Appeal No.



102 of 2016 (CIS No. 102 of 2016) by the Additional Sessions Judge, VIII, Gopalganj, as well as 29.06.2016 passed by the Additional Chief Judicial Magistrate, IV, Gopalganj in Complaint Case No. 1524 of 2007 (Registration No. 4074 of 2016), stand quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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