

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 340 of 2019

- Goldy Chandrakar D/o Pila Ram Chandrakar Aged About 25 Years
Occupation Lady Constable, Working In Office Of Police
Telecommunication Balod, P.S. And District- Balod, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh through District Magistrate Balod, District- Balod, Chhattisgarh
2. Ashok Kumar Thakur S/o Shri Anand Singh Thakur Aged About 40 Years Occupation Assistant Sub Inspector Working In The Office Of Police Telecommunication Balod, P.S. And District- Balod, Chhattisgarh
3. Pila Ram Chandrakar S/o Shri Badri Prasad Chandrakar R/o Village And Post Kuthrel, P.S. Anda, District- Durg, Chhattisgarh

---- Non-Applicant

For Applicant	:	Mr. Arun Shukla, Advocate.
For State/Respondent No.1:		Mr. Arijit Tiwari, Panel Lawyer.
For Respondent No.2	:	Mr. Shikhar Bakhtiyar, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-11-2019

1. This revision petition has been filed being aggrieved by the order dated 30.01.2019 passed by the Court of Sessions Judge, Balod, District- Balod (C.G.), by which the application filed by the petitioner under Section 239 of Cr.P.C. has been rejected.
2. It is submitted by the learned counsel for the applicant that applicant is a lady constable. She had made a complaint against the respondent No.2/complainant regarding sexual harassment. Subsequent to which, the respondent No.2 has taken benefit of his caste, filed a complaint against the applicant before the Court. The order taking cognizance of the trial Court is totally erroneous for the reason that no complaint should have been entertained without the sanction of the authority as required under Section 197 of Cr.P.C. Therefore, the order passed by

the trial Court is against the facts and circumstances and law which should be set aside.

3. Learned counsel for the State appearing for respondent No.1 opposes the petition.
4. Learned counsel appearing for respondent No.2 has submitted that the Act that is lodged in the complaint against the applicant does not come under the purview of any official Act, which was performed in discharge of official duty. Therefore, any sanction under Section 197 of Cr.P.C. for prosecution of the applicant is not at all required in this case. Hence, no error has been committed by trial Court.
5. Heard learned counsel for both the parties and perused the documents.
6. Respondent No.2, who is an Assistant Sub Inspector in District- Balod, has filed a private complaint before the Court that the applicant was working in his subordination and was habitual in committing indiscipline. As the respondent No.2 made a report regarding the information of the applicant for the purpose of initiating a disciplinary action against her. Subsequent to which, the applicant submitted a false complaint against the respondent No.2 making false allegations of sexual harassment. The complaint filed against respondent No.2 was inquired and found false. Respondent No.2 is a member of Scheduled Tribe, therefore, the trial Court has after making preliminary inquiry taken cognizance of the complaint for trial and offences under Section 500 of I.P.C. and Section 3(1)(viii) of SC & ST(Prevention of atrocities Act), 1989.
7. The only ground taking this revision petition is that the prosecution without a sanction under Section 197 of Cr.P.C. is not maintainable, which does not hold ground for the reason that the offence which is alleged to have been committed, should be committed while acting or purporting to act in the discharge of official duty. Filing any complaint making baseless allegations is not an act in discharge of any official

duty. On the contrary, it is a private act which the applicant proceeded with against the respondent No.2, hence, it is not a case covered under Section 197 of Cr.P.C., therefore, this petition is without any substance which is dismissed at motion stage.

8. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika