

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 192 of 2010**

Umar Usman S/o Late Abdul Habib Usman, Aged about 45 years R/o Motor Stand Ward, Dhamtari, District Dhamtari (C.G.).

---- Appellant**Versus**

1. Smt. Shaheen Khan W/o Shri Aslam Khan, aged about 38 years R/o Telipara, Sadar Ward, Raipur, Presently residing at Primary Health Centre, Akoli Road, Aarang, P.S. Aarang, District Raipur (C.G.).

2. Shri Iqbal Ahmed S/o Shri Ahmed Baksh, Aged about 50 years R/o Station Para, Mahasamund, P.S. & District Mahasamund (C.G.).

---- Respondents

For Appellant	:	Mr. Adil Minhaj, Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**05/07/2019**

1. This acquittal appeal is preferred under Section 378 (4) of the Cr.P.C against the judgment dated 28/01/2010 passed in Criminal Case No. 339/2008 passed by the Judicial Magistrate First Class, Dhamtari, whereby the Appellant has been acquitted from the charge punishable under Section 500 of the IPC.
2. Facts of the case are that the Respondents/ accused had sent a notice dated 15/12/2007 through their Advocate Shri A.K. Soor to the Appellant. They made false and fabricated allegations against the Appellant, Mohd. Ayyub, Lateef Ahmed and Mumtaz Begum stating therein that they attempted to misguide Fatima Begum, mother of

Respondent No. 1 for selling a plot situated at Telipara, Raipur. The allegations leveled in the notice adversely affected the reputation of the Appellant and lower down his character in the estimation of others. The Appellant feeling hurt and aggrieved by the imputations made in the said notice, filed a criminal complaint against the Respondents. The same was registered for the offence punishable under Section 500 of the IPC. Subsequently, charges were framed. After trial, vide impugned judgment dated 28/01/2010, the learned trial Court has acquitted the Respondents from the charge. Thus, this acquittal appeal has been preferred by the Appellant.

3. Learned Counsel appearing for the Appellant submits that the learned trial Court has failed to appreciate the fact that the copies of the notices were circulated amongst the relatives of the Appellant, thus, the complainant has been successful in sustaining the allegation made by him against the Appellant. He further submits that the learned trial Court has failed to appreciate the evidence of Complainant Witness No. 3 Fatima Begum in its true perspective and the Court has wrongly observed that there is no publication of notice, therefore, the impugned judgment of acquittal is entirely based upon conjectures and surmises. The same is also suffers from material illegality and deserves to be set-aside.
4. None for the Respondents.
5. I have heard learned Counsel appearing on behalf of the Appellant and perused the record minutely.
6. Before the trial Court, the Appellant has examined as many as 6

witnesses in his favour including himself.

7. It is an admitted position that the Respondents had sent a notice dated 15/12/2007 through their Advocate Mr. A.K Soor to the Appellant. In the said notice, the allegation was that the Complainant is making conspiracy to sell the house situated at Telipara and on being objected, the Complainant has quarreled with them. In Court statement, Nasreen Usmaan (Complainant Witness No. 2), wife of the Complainant, has admitted the fact that there is a dispute between her sister and her husband for the disputed property. Due to this reason her mother always remains sad. She also admitted the fact that she wants to fix the dispute and wants to leave peacefully.
8. Fatima Begum (Complainant Witness No. 3) also deposed that the Complainant and her two other son-in-laws had talked with her regarding the disputed property. Thus, it is clear that there was dispute for the said property between the Complainant and the Respondents. Therefore, the finding of the trial Court that the allegations made in the notice are false is not established on the basis of evidence available on record.
9. Nasreen Usman (Complainant Witness No. 2) also admitted that after receiving the notice, the Complainant had himself told the same to the people residing nearby him, Thus, it is also established that the contents of the notice was circulated by the Complainant himself. Apart from this, from the evidence adduced by the Complainant, it is not established that he suffers from any defamation.
10. The trial Court has elaborately discussed the entire evidence and

came to the conclusion that basis ingredients for establishing offence under Section 500 of the IPC is lacking and recorded finding of acquittal.

11. After reassessment of entire evidence, this Court has no reason to record contrary finding. It is not a case where the Respondents should be called for hearing again for full consideration of this appeal.
12. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge