

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.154 of 2005

Order reserved on 29.01.2019

Order pronounced on 24.10.2019

Avinash Sendoor, S/o Shri J.M. Sendoor, aged about 42 years,
Workshop Instructor, Govt. Engineering College, Raipur (CG)

---- Applicant

Versus

1. S.K. Mishra, S/o Badri Prasad Mishra, R/o Hemant Cycle Store,
Opposite Thana Kotwali, District Raipur (CG)

2. State of Chhattisgarh

----Respondent

For Applicant : Mr. Kashif Shakil, Advocate

For Respondent : Mr. I. Lakra, Dy. GA.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

Complaint case filed on 02.07.1994 by non-applicant S.K. Mishra who was posted as Technical Assistant in Government Engineering College, Raipur goes to show that on 02.01.1993 the applicant herein who too was an employee of the same institution posted as the Workshop Instructor had demanded key of the laboratory from the non-applicant No.1 and on refusal by him for the genuine reason the applicant made certain imputations against him such as being the President of the Employees Union he was charging Rs.50 but issuing the receipt for only Rs.10; that he was involved in selling and consuming Ganja in the laboratory; and also branded him a rustic and tribal fellow. Not only this, the complainant was also threatened by the applicant of being deprived of the job.

2. Learned Magistrate while taking cognizance of the matter recorded statements of the complainant and other witnesses and thereafter found the accused/applicant guilty of the charges made against him vide judgment dated 18.03.2005. While holding the accused/applicant guilty

under Section 500 IPC though no sentence of imprisonment was imposed yet he was directed to pay fine of Rs.1000/-, coupled with default sentence. Appeal preferred by the accused/applicant also did not provide him any reprieve and being that the findings of the Magistrate were ultimately affirmed by the judgment impugned herein dated 21.08.2004. Hence this revision.

3. Counsel for the accused/applicant submits that both the Courts below have convicted the accused/applicant under Section 500 IPC without obtaining proper sanction to prosecute him, which is contrary to the requirement of law. He submits that the applicant being a Government servant would suffer irreparably if the conviction slapped on him is not brushed aside by this Court. In support of his submission, counsel for the applicant relied upon the decisions of the Apex Court in the matters of **Rajendra Kumar Sitaram Pande Vs. Uttam and another** reported in (1993) 3 SCC 134; **Birla Corporatin Ltd. Vs. State of Rajasthan**, reported in (1999) 3 SCC 138; **Director of Inspection & Audit and others Vs. C.L. Subramaniam**, reported in 1994 Supp (3) SCC 615.

4. On the other hand, counsel for the non-applicant/complainant supports the judgment impugned and submits that as the applicant humiliated the non-applicant and defamed him by making several imputations in presence of number of employees of the said institution and also threatened him of snatching away his job, the judgment impugned is appears to be fully justified and does not call for any interference in this revision.

5. Having heard counsel for the respective parties and taken note of the statements of the witnesses as also the evidence on record, it is apparent that on the date of incident when the complainant did not handover the key of the laboratory demanded by the accused/applicant as he (the accused) had no concern with the laboratory, he defamed him by

saying that he was illegally recovering Rs.50 in place of Rs.10 as membership fee and also branded him the seller and consumer of Ganja in the laboratory. Not only this, the applicant had also threatened the complainant of depriving him of the job and also called him a rustic tribal fellow, and thereby committed offence of defamation under Section 500 IPC. It is relevant to mention here that PW-2 and PW-3 both employees of the same institution were also present at the relevant time when the complainant/non-applicant – the President of Class III Employees Union was humiliated by the accused/applicant. Furthermore, the accused/applicant did not rebut the evidence led by the complainant by examining any witness in support of his case. As regards non obtaining of sanction to prosecute the accused/applicant, the record shows that the Principal of the Government Engineering College had refused to grant such permission on the ground that the matter was personal in nature, which as per the considered opinion of this Court was just and proper. The imputations referred to above clearly bring the case in hand within the sweep of definition of defamation contained in Section 499 IPC and, therefore, the conclusion drawn by the Court below does not suffer from any legal flaw. The judgments relied upon by the counsel for the applicant being distinguishable on facts is not applicable to the present case.

6. Both the Courts below, therefore, have been fully justified in convicting the accused/applicant under Section 500 IPC and awarding the sentence of fine quantified at Rs.1000/-. No illegality or infirmity is there in the judgment impugned worth interference by this Court

7. Revision thus being without any substance is hereby dismissed.

**Sd/-
(Vimla Singh Kapoor)**

Judge