

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 432 of 2005

Order reserved on 02.01.2019

Order pronounced on 09.04.2019

Deepak Kumar Buddhadev, S/o Lalji Bhai, aged about 53 years, R/o Gandhi Chowk, Rajnandgaon, P.S. & District Rajnandgaon (CG) **---- Applicant**

Versus

1. Ramesh Yagyik, S/o Chhotelal Yagyik, aged about 67 years, R/o Lalbagh, Street No.1, Rajnandgaon, P.S. & District Rajnandgaon (CG).
2. State of Chhattisgarh, through District Magistrate, Rajnandgaon (CG).

---- Respondents

For Applicant	:	Shri Rajiv Shrivastava, Advocate.
For Respondent No.1	:	None.
For Respondent No.2	:	Ms. M. Asha, PL for the State.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

The complainant Ramesh Yagyik – an ardent social worker and a columnist of several leading local newspapers for which he received innumerable awards, made a complaint against the accused/applicant herein to the effect that he on account of some old standing enmity published an article in a newspaper styled as “Dainik Dawa” making number of imputations on his personality and thereby tarnished his image in the society. Having felt humiliated, the complainant gave a legal notice to the accused/ applicant but it did not deter him from his attitude and even thereafter he continued to make imputations maligning his reputation in the social fabric.

2. Having taken note of the allegations made by the complainant and the stand put forth by the accused/applicant, learned trial Court found the accused/applicant guilty under Section 500 of the Indian Penal Code vide judgment dated 19.02.2002 passed in Criminal Case No.576/1998 and imposed the sentence of simple imprisonment for one year with fine of Rs.1500/- suffixed by default stipulations. On appeal, learned lower Appellate Court though maintained the conviction of the accused/applicant yet the sentence awarded by the trial Court has been modified by reducing the same to SI for 15 days coupled with fine of Rs.500/-. Being disgruntled by the findings recorded by the lower Appellate Court in its judgment dated 23.09.2005, the accused/applicant has approached this Court by way of instant revision petition.

3. Learned counsel for the accused/applicant submits that the ingredients of defamation contained in Section 499 of the Indian Penal Code are not attracted to the facts of the present case and, therefore, the Court below has fallen into a serious legal error in convicting the accused/applicant under Section 500 IPC though the evidence collected by the prosecution does not spell out anything incriminating against him. He further submits that the conviction of the accused/applicant arrived at by both the Courts below is contrary to the material available on record and, therefore, the same cannot be made sustainable in the eye of law.

4. There is no representation of the complainant/respondent No.1 in this case. State counsel however supports the judgment impugned.

5. This Court has gone through the material on record and also the findings recorded by the two Courts below, in depth. The

contents of newspaper dated 17.07.1997 styled as “Dainik Dawa” being published from Rajnandgaon area with the consent of the accused/applicant carries in its fold the substandard, humiliating and imbalanced imputations against the complainant who is the recipient of several glorious awards for his literary work, branding him a corrupt and morally pervert human entity. The material so published under the guidance of the accused/applicant seems to have been created in order to damage the image of the complainant in the society where he finds an honorable place to hold on. Thus both the Courts below have not committed any illegality in holding the accused/applicant guilty under Section 500 IPC, which is hereby maintained.

6. As regards sentence, considering the fact that the accused/applicant has remained in jail for four days and that a substantial period of about 22 years has passed by from the date of incident making the applicant face prosecution all along, this Court thinks it just and proper and in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. With the above, the revision is allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge