

Criminal Misc. Petition No.2219 of 2019

- Petitioner**

---- Respondent

Hon'ble Shri Justice Ram Prasanna Sharma

15.10.2019

1. Heard on application under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. This petition has been preferred against judgment dated 19.8.2019 passed by Judicial Magistrate First Class, Durg (CG) in Complaint Case No.1236609/2013 wherein the said Court acquitted the respondent for the charge under Section 500 of the Indian Penal Code, 1860.
3. The petitioner filed a complaint against the respondent under Section 500 IPC for publishing false imputation against him in a daily newspaper Patrika on 09.6.2013 stating that the petitioner is engaged in malpractice of black marketing of gas cylinders and as a result, there is shortage of gas cylinders for

genuine consumers. On publication of false imputation, the complainant issued legal notice through his advocate on 21.6.2013 and thereafter complaint was filed before the trial Court which resulted into acquittal.

4. The complainant side adduced evidence of Girish Bansal (PW-1), Mohd. Ali Irani (PW-2) and Surendra Nath Tiwari (PW-3) for establishing the charge before the trial Court. The case is based on publishing of defamatory matter in the newspaper. Publisher of the newspaper is responsible for defamatory matter published in the said newspaper. In the present case no one examined from the complainant side to prove that it is the respondent who provided the imputation to the newspaper for publication. In absence of evidence of any person in charge of the said newspaper it is not established that the respondent had supplied the information for publication. Therefore, there is no evidence to connect the respondent for publication of said matter in the newspaper.

5. Admittedly, the petitioner is a licensee to run the gas agency which is allotted to him by the Indian Oil Corporation. It is open for the customer to make complaint or to make suggestion for betterment of the system of any gas agency. Case under Section 500 IPC is made out only when intention on the part of the respondent to harm the reputation of the petitioner or knowledge or reasonable belief that imputation will harm the reputation of the person is concerned is essential ingredient. When the petitioner is running a gas agency he is bound to hear any complaint which

is made for improvement of the system and the same cannot be termed as imputation to harm the reputation of the petitioner. The trial Court after evaluating the entire evidence recorded finding that intention or knowledge to harm reputation of the petitioner is absent in the present case. After reassessing the evidence, this Court is of the opinion that it is not a case where the respondent should be called for full consideration of the petition. It is also not a case where interference of this Court is required with the judgment of the trial Court.

6. Accordingly, present petition is liable to be and is hereby dismissed at the motion stage itself.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**