

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 18.02.2020

Delivered on 08.05.2020

Acquittal Appeal No.494 of 2019

Bholaram Sahu S/o Late Dhanwaram Sahu Aged About 52 Years Teacher, Government Girls Higher Secondary School, Arang, Tahsil And District- Raipur, Chhattisgarh.

---- Appellant

Versus

1. Parasnath Sahu S/o Chumbaklal Sahu Aged About 36 Years Sarpanch, Gram Panchayat Bhilai, Development Block- Arang, District : Raipur, Chhattisgarh
2. Maniram Sahu S/o Suklal Sahu Aged About 52 Years R/o Gram Panchayat Bhilai, Development Block- Aarang, District- Raipur, Chhattisgarh.
3. Maniram Nirmalkar S/o Asharam Aged About 41 Years R/o Gram Panchayat Bhilai, Development Block- Aarang, District- Raipur, Chhattisgarh.
4. Smt. Sukhmati Sahu W/o Shri Nohar Lal Sahu Aged About 46 Years R/o Gram Panchayat Bhilai, Development Block- Aarang, District- Raipur, Chhattisgarh.

---Respondents

For the appellant	: Shri Faiz Kazi, Advocate
For the respondents	: Shri DN Prajapati and Shri Abhinav Shrivastava, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. The appeal is directed against judgment dated 29.11.2018 passed by Judicial Magistrate First Class, Raipur in Criminal Case

No.8280/1997 wherein the said Court acquitted the respondents for the charge under Section 500 of the Indian Penal Code, 1860 for commission of offence of defamation on 28.9.1995.

2. As per the version of the appellant, he was working as Teacher in Government Girls Higher Secondary School and as such he was a Govt. servant. Respondent No.1 Parasnath Sahu is the Sarpach of Gram Panchayat Bhilai, Development Block Arang and remaining respondents are the Panch of the said gram panchayat. On 28.9.1995, the respondents submitted an application before the Collector, Raipur in which it is mentioned that the appellant is nuisance creator, anti-social, thief and he maliciously misused position of his mother who was a Panch at that time. It was also alleged that the appellant was selling liquor and encouraging encroachment. The Collector appointed Naib Tahsildar as enquiry officer for the said complaint who forwarded the application to Sub Divisional Magistrate, Raipur and thereafter to Tahsildar, Raipur to enquire into the matter. Said complaints were time and again made to blemish the image of the appellant and to harm the reputation of the appellant. That is why complaint was filed before the trial Court under Section 200 of the CrPC. which resulted into acquittal.

3. Learned counsel for the appellant submits as under:

(i) Case of the appellant does not fall in 8th or 9th

Exception of Section 499 IPC but the trial Court recorded finding of acquittal on the basis of said exceptions which is not permissible under the law.

(ii) From the evidence, it is established that charges levelled against the appellant by the respondents is because of their ill motive, therefore, their act falls within mischief under Section 500 IPC.

(iii) The trial Court has not evaluated evidence properly, therefore, finding of the trial Court is liable to be set aside and the respondents should be convicted for the offence in question.

4. On the other hand, learned counsel for the respondents supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered with while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the record of the Court below.

6. To substantiate the charge, the appellant side examined evidence of Bhola Ram Sahu (PW-1), Deendayal Satyavati (PW-2), Anup Sahu (PW-3), while defence side examined Girdharilal Sahu (DW-1), Purshottam Jalkshatriya (DW-2), Chamanlal Sahu

(DW-3) and Ramdhar Sahu (DW-4). From the evidence of Bhola Ram Sahu (PW-1), Deendayal Satyavati (PW-2), Anup Sahu (PW-3), the facts emerge that the complaint was made to higher authorities against the present appellant. In the said complaint, it was requested that the appellant be transferred to some other place from his present place of posting. The appellant admitted that complaint was made to his higher authorities. Admittedly, the appellant is a public servant. Complaint made by the respondents shows that they wanted some enquiry based on facts made to higher authorities for some misconduct of the appellant.

7. The trial Court after evaluating the evidence, recorded finding that accusation made by the respondents appears to be in good faith and the same is submitted before the lawful authority over the appellant and the same made of public good. Therefore, case of the respondents falls within exception 8 of Section 499 IPC, 1860. After going through the record, the view taken by the trial Court is one of the plausible view. The trial Court has not evaluated the evidence on the basis of irrelevant and extraneous material and the finding of the trial Court is based on relevant material and the same cannot be termed as perverse. Therefore, it is not a case where acquittal order can be converted as one of conviction.

8. Accordingly, the appeal being devoid of merits is liable to be
and is hereby dismissed at the motion stage itself.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Bini