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HIGH COURT OF CHHATTISGARH, BILASPUROrder Reserved on 06.03.2020Order Delivered on 23.09.2020CRMP No. 2504 of 2019

1. Hemshankar Deshlahra S/o Late Shri Dukoriha Deshlahra Aged About 57 Years Caste Satnami, R/o Qr. No. 1 Street No. 4 Virat Nagar, Borsi P.S. Padmanabhpur, Durg District Durg Chhattisgarh.

---- Petitioner

Versus

1. Amar Agrawal, The Then Minister Urban Administration And Development, Chhattisgarh Government, Atal Nagar Nawa Raipur Chhattisgarh.
2. Rohit Yadaw The Then Secretary, Urban Administration And Development, Department Chhattisgarh Government, Atal Nagar Nawa Raipur Chhattisgarh.
3. Niranjana Das The Then Special Secretary, Urban Administration And Development Department Chhattisgarh Government, Atal Nagar Nawa Raipur Chhattisgarh.
4. L.D. Chopde The Then Under Secretary, Urban Administration And Development Department, Chhattisgarh Government, Atal Nagar Nawa Raipur Chhattisgarh.
5. B.L. Soni The Then Under Secretary, Urban Administration And Development Department, Chhattisgarh Government, Atal Nagar Nawa Raipur Chhattisgarh.
6. Srikrishna Dube The Then Joint Director, Urban Administration And Development Department, Atal Nagar Nawa Raipur Chhattisgarh.

7. P.B. Kashi The Then Joint Director Zonal Office, Urban Administration And Development Department, Durg Chhattisgarh.
8. Sudesh Kumar Sundrani The Then Joint Director Zonal Office, Urban Administration And Development Department, Raipur Chhattisgarh.
9. State Of Chhattisgarh Through Chief Secretary, Mantralaya, Mahanadi Bhawan, Naya Raipur Atal Nagar, District Raipur Chhattisgarh.

---- Respondents

Petitioner	:	In Person (Hemshankar Deshlahra)
For State	:	Ms. Fouzia Mirza, Addl. Adv. General

Hon'ble Shri Prashant Kumar Mishra, J.

Hon'ble Shri Gautam Chourdiya, J.

By

Prashant Kumar Mishra, J.

1. This application (CrMP) under Section 378(4) of the Code of Criminal Procedure, 1973 seeking leave to appeal is directed against the order dated 14-10-2019 passed by the Special Judge (Atrocities), Raipur, dismissing the private complaint filed by the petitioner by refusing to take cognizance in the matter, against the respondents for committing offence under Sections 120-B, 109, 111, 166, 193, 211, 467, 468 & 471 of the Indian Penal Code and under Sections 3(1)(9), 3(2)(6)(7) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Brief facts, as appearing in the complaint (Annexure – A/3) preferred by the petitioner against the respondents, who are former Minister, Secretary level IAS Officers and other senior officers of the Department of Urban Administration & Development, Government of Chhattisgarh, are that the petitioner was posted as Chief Municipal Officer, Tilda-Newra, District Raipur from 14-3-2016 to 28-9-2016 and before that at Mahasamund from 10-4-2012 to 11-10-2012. According to the petitioner, the Minister and other officers of the concerned department harassed and traumatized him by issuing notices, suspending him, and constituting departmental enquiry on frivolous & non-existing grounds knowing fully well that he belongs to Scheduled Caste community. The departmental enquiry was completed against him by conducting one hour proceeding and was not reinstated in service denying his fundamental rights. He was wrongly sent on deputation and the recommendation issued by the Chhattisgarh State Scheduled Caste community was ignored. He was deliberately humiliated by posting him under his junior.
3. While refusing to take cognizance of the complaint the learned Special Judge has referred to the enquiry report submitted by the SC/ST Police, Raipur, in which it was opined by the police that there is no material to substantiate that the officers have deliberately and *mala fide* harassed the complainant/petitioner herein. It is also observed that the matter relates to petitioner's posting, service conditions, suspension, promotion, etc.

4. This Court has heard the petitioner, who appeared in person, at length. He reiterated the same submissions, which he has mentioned in the complaint and the written submission filed before the Special Judge (Atrocities). He pointed out the defects in the order passed by the Department from time to time.
5. *Per contra*, learned Addl. Advocate General appearing for the State, while opposing the CrMP, would submit that the petitioner is trying to convert his service dispute into a criminal matter.
6. Having heard the petitioner and the learned Addl. Advocate General, we are of the considered view that the petitioner's complaint has rightly been dismissed by the Special Judge (Atrocities) at the pre-cognizance stage. Documents filed with the complaint are mainly relating to various orders concerning his posting, suspension, departmental enquiry, etc. If the petitioner has any grievance against those orders the appropriate forum for him is to prefer a writ petition before this Court.
7. As a matter of fact, the petitioner had preferred petitions before this Court and in one such petition as mentioned in para 12 of the complaint some order was passed in his favour, however, merely because the writ petition was decided in his favour it would not substantiate the petitioner's allegation against the respondents that he was deliberately harassed and humiliated only for the reason that he belongs to Scheduled Caste community.

8. If private criminal complaints are entertained in such matters then it will be difficult to maintain discipline in any Government office. Any order passed by the superior authority against the subordinate employee who coincidentally happens to be a member belongs to SC/ST community would eventually lead to a criminal complaint, if such complaints are entertained. Even otherwise, the alleged acts committed by the respondents were committed in discharge of their official duties, therefore, before filing complaint and desiring the Court to take cognizance, proper sanction from the competent authority of the Government is required, which has not been done in the case at hand.
9. The instant application (CrMP) seeking leave to appeal has no substance. It is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge

Gowri