

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
PROCEEDINGS THROUGH VIDEO CONFERENCING

ACQ. APPEAL No. 254 of 2010

(Arising out of judgment dated 17-12-2009 passed by the Judicial Magistrate First Class, Ambikapur, Distt. Sarguja (CG) in Criminal Complaint Case No. 258/2008)

Smt. Rekha Wd/o. Tejendra Pal Singh, aged about 30 years, R/o. Village Rajpur, (Khutanpara) Thana and Tahsil Rajpur, Distt. Sarguja (CG)

---- Appellant

Versus

1. Smt. Jasveer Kaur W/o. Atar Singh, aged about 60 years.
2. Atar Singh S/o. Late Shri Gyan Singh, aged about 65 years.

Both are residents of Muhalla Mayapur Nagar, Thana and Tahsil Ambikapur, Distt. Sarguja (CG)

---- Respondents

For Appellant	:	Mr. Sunil Sahu, Adv.
For Respondents	:	Ms. K. Radhika, Adv. on behalf of Mr. V.K. Pandey, Adv.

Hon'ble Shri N.K. Chandravanshi, Judge

ORAL JUDGMENT

02-07-2021

1. By this appeal, the appellant has challenged the legality and propriety of the impugned judgment dated 17-12-2009 passed by the Judicial Magistrate First Class, Ambikapur, District Sarguja (CG) in Criminal Complaint Case No. 258/2008, whereby learned trial Court has acquitted the respondents from the charge under Section 500 of the Indian Penal Code.

2. Brief facts of the case are that the respondents are mother-in-law and father-in-law of the appellant/complainant. The appellant/complainant is working in the Forest Division, Rajpur. After death of her husband namely Tejendra Pal Singh, the respondents filed an application under Section 125 of the Criminal Procedure Code, 1973 (in short, 'Cr.P.C.') for

grant of interim maintenance from the appellant/complainant. In that case, the appellant/ complainant filed preliminary objection and in reply thereto, the respondents used defamatory word 'Rakhail' for the appellant/complainant. The said defamatory word in the documents was read by villagers, and they taunted the appellant / complainant, therefore, she felt defamed, it also reduced the image of the appellant/complainant in the society. The appellant/complainant filed Complaint Case under Section 200 of the Cr.P.C. for punishing the respondents under Section 500 of the Indian Penal Code. The trial Court after adopting due procedure, framed charge against the respondents, recorded evidence of the prosecution witnesses, also recorded statements of the respondents under Section 313 of the Cr.P.C. in which they denied the circumstances appearing against them, and after hearing learned counsel for the parties, passed the impugned judgment dated 17-12-2009 whereby the respondents were acquitted from the charge leveled against them.

3. Being aggrieved by the impugned judgment of acquittal, the appellant/ complainant has filed this acquittal appeal.

4. I have heard learned counsel for the parties and perused the impugned judgment of the trial Court and material available on record.

5. Learned counsel for the appellant submits that the evidence adduced by the appellant clearly establishes the offence of defamation against the respondents but learned trial Court without any ground has recorded the finding that marriage of the appellant has not been proved with Tejendra Pal Singh, who was the son of respondents. He further submits that witnesses have proved in their statements that the respondents have stated the word 'Rakhail' (illegal wife) in oral and in writing, despite that, learned trial Court has committed mistake by

acquitting the respondents. Therefore, the impugned judgment passed by learned trial Court is perverse and not sustainable in the eye of law.

6. As per the evidence of P.W. 1 complainant Smt. Rekha Kaur, the respondents used to come to her maternal house to quarrel. They uttered her 'illegal wife' (Awaidh Patni). They also wrote to her office saying her 'Rakahil'. By reading this defamatory word, she felt embarrassing. Her neighbours laughed at her.

7. P.W. 2 Shanti Devi is mother of the complainant. She has stated that the respondents had filed maintenance case against her daughter. She has further stated that the respondents had used the word 'Rakhail' for her daughter in written application which was sent to their home. She has also stated that by reading and listening the said word, they felt very bad and insulted in the village. She has also stated that by writing 'Rakhail', the respondents sent it to her office also.

8. Only two witnesses have been examined by the complainant in support of her case. Both witnesses i.e. complainant Smt. Rekha Kaur and her mother Shanti Devi have not stated in their statements that the respondents used word 'Rakhail' for appellant in reply to the preliminary objection filed by the appellant in the maintenance case. It is her case that the respondents have written 'Rakhail' for her in the reply to the preliminary objection, but both the witnesses in their statements have stated that the respondents had written said word and sent it to the office of the appellant. This material contradiction creates doubt as to where the respondents used the word 'Rakhail' for the appellant. Even the appellant has not filed and proved said reply filed by the respondents wherein they have used word 'Rakhail' for the appellant.

9. As stated above that the appellant has not examined any

independent witnesses to prove her case, therefore only on the basis of those interested witnesses, P.W. 1 Smt. Rekha Kaur and P.W. 2 Shanti Devi, who is the mother of the complainant P.W.1 Smt. Rekha Kaur, charge leveled against the respondents cannot be said to be proved.

10. Perusal of the impugned judgment shows that learned trial Court instead of considering the fact as to where the respondents had used word 'Rakhail' for the appellant, it went to a different line and has held that marriage of the appellant and Tejendra Pal Singh has not been proved. On due consideration, I find that in the light of evidence adduced by the appellant, it is not proved that the respondents had used the word 'Rakhail' for her and they have defamed/reduced her image in the society.

11. On the basis of above discussion, I find that the appellant has failed to prove her case before the trial Court. Therefore, learned trial Court has not committed any illegality in acquitting the respondents for charge under Section 500 of the IPC.

12. Accordingly, I do not find any substance in the appeal filed by the appellant, the same deserves to be and is hereby dismissed.

**Sd/-
(N.K.Chandravanshi)
JUDGE**