
(2003) 01 MP CK 0151

In the Madhya Pradesh High Court

Case No : Miscellaneous Cri. Case No. 8543 of 2002

Urmila Mishra

APPELLANT

Vs

Bholanath Yadav and Others

RESPONDENT

Date of Decision : 09-01-2003

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 34, 469, 504

Citation : (2003) 4 MPLJ 301

Hon'ble Judges : Narain Singh "Azad", J

Bench : Single Bench

Advocate : Vijay Nayak with Shukla, for the Appellant; Prakash Gupta, Panel Lawyer for State, for the Respondent

Final Decision : Dismissed

Judgement

Narain Singh "Azad", J.

On 2-8-2002, Judicial Magistrate First Class, Satna, refused to take cognizance against respondents No. 1 to 31, on petitioner's complaint filed for offences punishable under sections 500, 504, 469, 120-B, 109, 292 read with section 34 of the Indian Penal Code and the petitioner's challenge to aforesaid order in C.R. No. 9870/2002 also stood negated by S.J. Satna, on 10-12-2002, therefore, the petitioner now seeks exercise of inherent powers for quashment of both the aforesaid orders and a direction that cognizance may be taken against non-applicants No. 1 to 45 also.

According to the petitioner, she is Brahmin by caste commanding respect in different classes of society and is Government servant in Ayurvedic Hospital, Satna. On her report registered as crime No. 437/2000 dt. 14-7-2000 non-applicants No. 1 and 2 are being prosecuted for offences punishable u/s 451, 294, 293 and 506-B of the Indian Penal Code in respect of incident dated 14-7-2000. When the attempts made by non-applicants No. 1 and 2, for withdrawal of prosecution remained unsuccessful then since 15th of July, 2000 to

3rd of August, 2000 with intent to save themselves from aforesaid prosecution non-applicant No. 1 and 2 conspired to publicly defame the complainant and called the meeting of non-applicant No. 3 to 31, at their residence. As outcome of this meeting non-applicant No. 1 to 31 in connivance with each other concocted one application to be given to S.P. Satna and one for being given by women. One memo all of them prepared for publication in paper. Then non-applicant No. 1 submitted all the aforesaid papers along with two to S.P. Satna. Thereafter non-applicant No. 3 (para 5) page 18, handed over concocted application to S.P. Satna and non-applicant No. 1 gave one memo to non-applicant No. 32 to 35 for publication in paper Dainik Bhaskar, who published it in issue of 2-8-2000. Thus non-applicant No. 32 to 35 projected complaint a women of bad character and wife of Shri Brij Bhushan Shukla at falsely.

The learned JMFC, so also the revisional Court have justified the order of not taking cognizance against respondents No. 1 to 31 in the light of Ninth Exception provided below section 499 of the Indian Penal Code, which runs as under:

It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the persons making it, or of any other person, or for the public good.

It would be useful to reproduce the application handed over to the S.P. by respondent No. 1 marked A/4, the memo given to S.P. by respondent No. 1 to 31 marked A/5, memo handed over by women marked A/6 and the news published in Dainik Bhaskar marked A/7, which are as under :

Now I proceed to consider the legal position relevant to this case. It is noteworthy that for taking the benefit of Exception 9, the imputation need not be true but required to be made in good faith only, as explained by Ratanlal and Dhirajlal in 28th Edition of Indian Penal Code at page No. 698 referring to Mrs. Jinnat Ara Borbore reported in 1980 Cri. L.J. NOC 123(Gau.). It is also explained that this exception, pre-supposes the interest of the person to whom the communication is made, in protecting the person making the accusation. Then making reference of Kanwal Lal reported in Kanwal Lal Vs. State of Punjab, . It is also explained by the Apex Court that besides the bona fides of the persons making the imputation the person to whom the imputation is conveyed, must have a common interest with the person making it, which is served by the communication.

Thus on a careful consideration of application given by non-applicant No. 1 to 31 District Satna marked A/4, memorandum submitted by respondents No. 1 to 31 to the S.P. Satna, which is marked as Annexure A/5, and the publication of the news in Daily Newspaper in Dainik Bhaskar, which is marked as Annexure A/7, the order of not taking cognizance against the respondents No. 1 to 31 by the learned JMFC, on 2-8-2002, and the order dated 10-12-2002, passed by the Revisional Court, are not found suffering from any patent illegality, keeping in view the aforesaid legal position.

In result, in the absence of any patent illegality or exceptional circumstances

requiring exercise of extraordinary jurisdiction, this petition does not merit, which is accordingly, disallowed and rejected at the stage of motion hearing.