

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 15TH OF MARCH, 2024

MISC. CRIMINAL CASE NO.32853 OF 2019

BETWEEN:-

GAURI SHANKAR BISEN

.....PETITIONER

*(BY SHRI MANISH DATT – SENIOR ADVOCATE WITH SHRI
AYUR JAIN - ADVOCATE)*

AND

**1. SANJAY NAGAYACH
PRASAD NAGAYACH**

.....RESPONDENTS

(SHRI PRAVEEN DUBEY – ADVOCATE FOR RESPONDENT NO.1)

.....
Reserved on : 24.01.2024

Pronounced on : 15.03.2024
.....

*This petition having been heard and reserved for orders, coming
on for pronouncement this day, the Court pronounced the following:*

ORDER

By the instant petition filed under Section 482 of the Code of

Criminal Procedure, the petitioner is asking that the complaint filed by respondent No.1 before the trial Court under Section 200 of CrPC be quashed.

2. As per the facts of the case, respondent No.1 has filed a complaint under Section 200 of CrPC for offence under Section 500 of IPC against the present petitioner and five other persons. The complaint was filed on 15.05.2014 alleging therein that the present petitioner along with one Brijendra Pratap Singh visited Panna and using his political power tried to lower the reputation of respondent No.1 in a public meeting addressing him as 'Chor'. As per the complainant, the defamatory statement made by the present petitioner against respondent No.1 in a public meeting caused damage to his image in public and as such, offence under Section 500 of IPC is committed by the present petitioner. Therefore, it is claimed that the present petitioner and other accused persons be suitably punished.

(2.1) In support of the complainant, the statement of witnesses were also recorded and the complainant-Sanjay Nagayach and his witnesses namely, Yogendra Choubey and Arun Chourasiya before the Court have supported the facts mentioned in the complaint and also stated that the present petitioner and his colleagues in a public meeting addressed the complainant as 'Chor' and that particular word used against the complainant has lowered his image in public.

(2.2) The complainant himself in his statement has stated that he is the President of Kendriya Zila Sahkari Bank and used to be a leader of a political organization and as such, the present petitioner who was also the-then Cooperative Minister, was having grudge with the complainant and as such, with political agenda, he has used the defamatory word

against the complainant. The said word has been used with clear intention to harm or to believe that such imputation will lower down the image of complainant, therefore, the offence of Section 500 of IPC is made out against the present petitioner and his companion and they are liable to be punished accordingly.

3. Shri Datt, learned senior counsel appearing for the petitioner has submitted that there is political rivalry between the complainant and the present petitioner. It is contended by him that in paragraph-9 of the complaint, it is described that in a public meeting the present petitioner has alleged against the complainant and used defamatory word, but that pleading is not sufficient for constituting the offence of Section 500 of IPC because it is not very specific as the complaint does not contain date, time, month and year, on which such statement was made by the present petitioner against the complainant. It is also contended by Shri Datt that as per the settled principle of law, on the basis of vague allegations and not alleging the very specific incident even in the statement under Section 202 of CrPC, the offence of 500 of IPC is not made out. It is alleged that the complaint is nothing but has been filed with *mala fide* intention because against the complainant action about irregularities committed by him in a cooperative bank was taken and as such, the complainant was suspended from his post for a period of 7 years. It is submitted that W.P. No.17059 of 2011 filed by the complainant before the High Court got dismissed and that dismissal order of writ petition was challenged in Writ Appeal No.1065 of 2011, but the writ appeal was allowed and the order of writ court was set aside. Then, the State approached the Supreme Court by filing special leave petition (civil), but that was also dismissed. Thus, when allegation about embezzlement of huge amount by the complainant was made by

the present petitioner and action was taken against the complainant, therefore, he having grudge against the present petitioner filed a false complaint. It is submitted by the counsel for the petitioner that except oral statement of the complainant and his witnesses, no other material has been produced by the complainant in support of his statement so as to establish whether any such statement was actually made in a public meeting because neither any newspaper nor anything has been produced by the complainant. He has further contended that the documents are indicating that there was previous enmity between the present petitioner and the complainant and as such, false complaint made by the complainant alleging against the present petitioner and other accused persons, is liable to be set aside.

4. On the other hand, the counsel appearing for respondent No.1 has submitted that in all litigation on which the petitioner is relying upon, the Supreme Court has set aside the action taken by the petitioner against the complainant. He has submitted that merely because there was some previous enmity between the present petitioner and the complainant, it does not mean that whatever allegations have been made by the complainant against the present petitioner to defame the complainant in a public meeting cannot be entertained and the complaint filed by him, can be considered to have been filed with *mala fide* intention. He has submitted that not only the complainant, but other witnesses have supported the averments made in the complaint and also supported the stand of the complainant saying that the statement made by the present petitioner in a public meeting addressing the complainant as 'Chor' has caused damage to his image and adverse view came into the mind of public. He has further submitted that it is subject matter of trial and that will be determined as to whether the allegations made in

the complaint are correct or not, but at this stage, entertaining the petition under Section 482 of CrPC for quashing the complaint would not be proper because it is not a case in which even considering the statement or material produced by the complainant in his complaint and treating the same to be true at their face value, offence of 500 IPC is not made out. Therefore, he has submitted that the inherent power provided under Section 482 of CrPC cannot be exercised by the Court in the present case because the Supreme Court is repeatedly saying that the power provided under Section 482 of CrPC can be exercised sparingly. In support of his submissions, he has placed reliance upon the judgments of the Supreme Court reported in **(2013) 7 SCC 25 (State of Madhya Pradesh and Others v. Sanjay Nagayach and others)**, **(2015) 3 SCC 424 (Sonu Gupta v. Deepak Gupta and Others)**, **(2007) 7 SCC 394 (Japani Sahoo v. Chandra Sekhar Mohanty)** and **(1996) 6 SCC 263 (Shatrughna Prasad Sinha v. Rajbhau Surajmal Rathi and Others)**.

5. Considering the submissions made by learned counsel for the parties and perusal of record, I am of the opinion that in the complaint, specific allegations have been made by complainant against the present petitioner and in the statement, the witnesses have also stated that the present petitioner has alleged against the complainant in a public meeting addressing him as 'Chor' which otherwise lowered his image in public. Thus, in my opinion, it is not a fit case in which this Court can exercise the power provided under Section 482 of CrPC.

6. Petition fails and accordingly, it is **dismissed**.

(SANJAY DWIVEDI)
JUDGE

ac/-