

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 454 OF 2002

Dattatraya S/o Bhikaji Bhat
Age : 60 years, Occ.: Retired,
Servant, R/o.: Gangaram Plots,
Near Bazar Peth Police Station,
Bhusawal, Dist. Jalgaon. ..Appellant

Versus

1. Satish Gajanan Chaudhari
Age : 42 years, Occ.: Service,
Finance Department, Zilla
Parishad, Jalgaon
2. Jagan S/o Waman Sutar,
Age : 45 years, Occu.: Service,
Social Welfare Office,
Zilla Parishad, Jalgaon
3. Sahebrao S/o Vyankatrao Chavan
Age : 45 years, Occ.: Service,
R/o. Pimprale,
Tal. & Dist. Jalgaon
4. Shantaram S/o Vyankat Patil,
Age : 42 years, Occu.: Service,
Agril, Department, Zilla Parishad,
Jalgaon

(R.No. 4 is deleted as per
leave of the court order dated
05.10.2001)

5. Mansur S/o Yasin Patel
Age : 52 years, Occu.:Service,
Social Welfare Department,
Zilla Parishad, Jalgaon

(R.No. 5 is deleted as per
leave of the court order
dated 30.09.2004)

6. Nitin S/o Gunvantrao Chavan
Age : 32 years, Occu.: Service,
Social Welfare Office,
Zilla Parishad, Jalgaon

7. Mukesh S/o Ramchandra Teji
Age : 48 years, Occu.: Health
Department,
Zilla Parishad, Jalgaon

(R.No.7 abated as per Court's
order dated 18.11.2009)

8. Bhimrao S/o Govindrao Surve,
Age : 60 years, Occu.:Service,
R/o. 262, Shivaji Nagar,
Tal. & Dist. Jalgaon

(R.No.8 deleted as per
Court's order dated 18.11.2009)

9. Murlidhar S/o Nathu Patil,
Age : 55 years, Occu.: Service,
R/o. At Post Asoda
Tal. & Dist. Jalgaon

10. Ramchandra S/o Tanhu Nikam,
Age : 56 years, Occu.: Service,
R/o. Pimprale, Tal. & Dist.Jalgaon

11. Vasant S/o Ramchandra Chaudhari,
Age : 48 years, Occu.: Serivice,
R/o. 356, Shivaji Nagar, Tal
and Dist. Jalgaon

12. Smt.Kokilabai Keshavrao Deshmukh,
Age : 62 years, Occu.: Service,
Zilla Parishad, Jalgaon,

All accused R/o. Jalgaon,
District Jalgaon

13. State of Maharashtra ..Respondents

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Mr.A.N.Nagargoje, advocate h/f. Mr.V.J.Dixit,
Senior counsel for appellatnt

Mr.S.G.Shinde, advocate for respondent no.1

Mr.V.P.Kadam, APP for respondent no.13

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CORAM : M.T. JOSHI, J.

DATE : JUNE 19, 2015

ORAL JUDGMENT :

Heard Mr.Nagargoje, learned counsel appearing
for the appellatnt and learned APP for respondent
no.13 – State. None present for rest of the
respondents.

2] Aggrieved by recording of acquittal by learned
IIIrd Addl. Sessions Judge and setting aside the

order of conviction passed by the trial Court for the offence punishable under Section 500 read with 34 of Indian Penal Code against the respondents – accused, present appeal is preferred by the original complainant.

3] The complaint was filed by the appellant on the ground that a false complaint was forwarded by present respondent no.12 to the senior officials who was working as Peon in Zilla Parishad, Jalgaon, against present appellant – complainant, who was working as a Stenographer with the said office. In the complaint filed by respondent no.12, it was falsely alleged that the present appellant made advances against present respondent no.12. It was also alleged that present appellant had sat on the chair in front of respondent no.12 by removing his trouser. On the basis of said complaint of respondent no.12, respondent no.1 to 11 i.e. office bearers of the Employees' Union had

convened meeting and passed a resolution. As the the statements made in the resolution were defamatory, complaint in the present case came to be filed by the appellant.

4] The respondents by denying all the contentions, ultimately, submitted that the said documents were not public documents and a communication was made to the superior in good faith.

5] Learned trial Judge did not agree with the defence of present respondents – accused and therefore, conviction and sentence came to be recorded against them. Learned Addl. Sessions Judge, however, found that those documents were not public documents and further the case was covered by Eighth Exception of Section 499 of Indian Penal Code.

6] Upon hearing Mr.Nagargoje, learned counsel appearing for the appellant, it is clear that the superior officers of the appellant had conducted preliminary inquiry. However, statement of respondent no.12 was not recorded during that inquiry and the same was filed. Section 499 and relevant Eighth Exception, run as under :-

***"Section 499.-** Whoever by words, either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person."*

***Eighth Exception.-** 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 person making it, or of any other person, or for the public good."

Further the copy of the resolution allegedly passed by respondent nos.1 to 11, would also show that neither the appellant nor respondent no.12 was named and merely the alleged conduct was depreciated and copy of the said resolution was sent to the superior.

7] Upon hearing both sides, though in my view, learned Addl. Sessions Judge has committed error in passing a remark that those documents were not public documents, still the facts, as narrated above, would squarely fall within Eighth Exception, as detailed supra. Learned Addl. Sessions Judge has, therefore, taken a reasonable and proper view of the matter.

8] In the present appeal against the order of acquittal, therefore, no interference is warranted. The appeal is, therefore, dismissed. Bail bonds of the respondents – accused shall stand cancelled.

[M.T. JOSHI, J.]

kbp