

vks

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.406 OF 2002**

Shri. Satish Uttamrao Pawar	]	
Occupation: Medical Practitioner,	]	... <u>Applicant.</u>
residing at Gadab	]	Original
Tal. Pen,. District: Raigad	]	Complainant

V/s.

1. Shri. Raju Rajanikant Shaha	]	
age: 42 years, Occupation: Journalist,	]	
residing at Pen	]	..Respondents
District: Raigad.	]	Original
	]	accused.
2. The State of Maharashtra	]	

Mr. Rajesh S. Datar, Advocate, for the applicant.
Dr. F. R. Shaikh, APP for the Respondent State.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 4th DECEMBER, 2015.

ORAL JUDGMENT : [Per : Dr. Shalini Phansalkar-Joshi,J.]

1. This revision is preferred by the original complainant, being aggrieved by the fact that though respondent No.1 was held guilty for the offence punishable under Section 500 of Indian Penal Code, He was released simpliciter on due

admonition under Section 3 of the Probation of Offenders Act, 1958, setting aside the order of payment of fine amount as passed by the trial Court against him.

2. The impugned judgment and order dated 30th July, 2002, against which the applicant is filing this Revision Application, is recorded by First Ad-Hoc Additional Sessions Judge, Raigad, Alibag, in Criminal Appeal No.13 of 1998. Said appeal was preferred by respondent No.1-accused, challenging his conviction for the offence punishable under Section 500 of IPC and sentence to pay fine of Rs.2,000/- in default to under simple imprisonment for six months.

3. Brief facts of the revision can be stated as follows:-

The applicant is Medical Practitioner. Since 15.5.1988, he has opened dispensary at Gadab, Tal. Pen, District: Raigad. There was defamatory news published in the newspaper of Raigad Dhvani Samachar dated 30.6.1995 of which respondent No.1 was the Editor. The news was that due to negligence of

applicant, one boy of five months has become handicapped; therefore, the applicant is liable for his procession on riding donkey. According to applicant same news item was sufficient to lower his reputation in the society and therefore, he prosecuted respondent No.1, in the trial Court. The trial Court, on being satisfied with the evidence adduced by the prosecution, held respondent guilty and convicted him for the offence punishable under section 500 of IPC and sentenced him to pay fine of Rs.2,000/- in default to undergo simple imprisonment for six months.

4. In the Criminal Appeal preferred by respondent No.1 against said conviction and sentence, only argument advanced by learned counsel for respondent accused i.e. the appellant in the said appeal was relating to quantum of sentence. So far as conviction was concerned, it was not challenged. Accordingly, the appellate court heard both counsel only on the point of quantum of sentence, and the order of sentence was modified and the appellant accused was released on due admonition under Section 3 of the Probation of Offenders Act, 1958. He was

further directed to pay Rs.1,000/- by way of compensation to applicant and Rs.1,000/- by way of costs of proceeding under Section 5(1) (a) and (1) (b) of the Probation of Offenders Act.

5. It was urged before the appellate court that the present respondent No.1-accused was young editor and because of the fact that he was informed that Nardas, a five months child became completely disabled because of an injunction given by the present applicant, he felt enraged and has written the said article. In view thereof, the appellate court found it fit to take lenient view of the matter. The impugned judgment of the appellate court further reveals that learned counsel appearing on behalf of respondent No.1 in the said appeal i.e. present applicant conceded this position before him. Hence the appellate Court thought it fit to reduce the sentence to only due admonition under Section 3 of the Probation of Offenders Act, 1958. At the same time, the appellate court also directed appellant accused i.e. respondent No.1 to pay Rs.1,000/- by way of compensation to the present applicant and Rs.1,000/- as costs of these proceedings, under Section 5 (1) (a) and (1) (b) of

the Probation of Offenders Act.

6. In my considered view, in the light of the fact that concession was made before the Appellate Court relating to reducing quantum of sentence, as requested by the respondent, there is hardly any ground now for the applicant to challenge the impugned order, passed by the appellate court. It is also pertinent to note that the appellate court has also directed the payment of compensation whereas order of trial Court was only of payment of fine of Rs.2,000/-. In such circumstances, no other view of the matter can be taken as having regard to the facts of the case, the punishment imposed on the respondent can hardly be called as disproportionately meager so as to cause interference therein by this Court. There is no merit in the revisional proceeding, therefore Revision Application stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

C E R T I F I C A T E

Certified to be true and correct copy of the original signed judgment.