

hvn

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 349 OF 2013**

Mrs. Lakshmmi Sayeed ... Applicant

Versus

State of Maharashtra and Ors. Respondents

Mr.R. Satyanarayanan for the applicant.

Mr. Joel D'souza i/by Mr. S.M. Kamble for respondent no. 3.

Ms G.P. Mulekar, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 10, 2015**

P.C.

Admit. Heard finally.

2. Heard Mr. Satyanarayan, counsel for the applicant and learned counsel Mr. J. D'souza for respondent no.3 and learned A.P.P. for the State. None for respondent no. 2.

3. The applicant is the complainant in Criminal Case No. 2990/SS/2011. He is aggrieved by the order of the learned Sessions Judge in Criminal Revision Application No.261 of 2012 by which the learned Sessions Judge has set aside the order passed by the learned Magistrate in Criminal Case No.2990/SS/2011. By the said order, learned Magistrate had issued process for the offence punishable under section 500 of the Indian Penal Code against respondent nos. 2 and 3. Respondent nos. 2 and 3 moved the

learned Sessions Court challenging the said order. As already stated the learned Sessions Court has set aside the order passed by the learned Magistrate.

4. The order of the learned Magistrate was found to be very cryptic. This is one of the reasons that the learned Additional Sessions Judge was required to set aside the order. The learned counsel for respondent no. 3 has also submitted that the Magistrate has not given any reasons for coming to the conclusion that there was prima facie case under section 500 of Indian Penal Code.

5. It may be mentioned here that all orders issuing process are not necessarily required to be supported by the reasons. It is possible that some orders passed by the Magistrate issuing process without reasoned order can be sustained. At the same time, it may be noted that there may be cases where it may be necessary for the Magistrate to record reasons for issuing the process. In the present case, letters in question were addressed to the authorities which allegedly included defamatory material. Learned Magistrate in the circumstances should have examined whether there was requisite intention or knowledge on the part of respondent nos. 2 and 3. Learned Magistrate should have also examined whether respondent nos. 2 and 3 had reason to believe that by writing such letters, they might be harming the reputation of the applicant. It appears that the learned Magistrate had issued process without going through the contents of the letters in question.

6. In the circumstances, I am not inclined to maintain the order of the revisional court. Additionally I am inclined to remand the matter back to the Magistrate for hearing the matter afresh and to decide as to whether the process under section 500 of Indian Penal Code could be issued against

respondent no. 2 and 3. The learned Magistrate shall follow the direction given by this court hereinabove.

6. The applicant to appear before the learned trial Magistrate on 28th July, 2015.

(JUDGE)