

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1347 OF 2016

Shivaji S/o Bhikaji Gite .. Applicant

Vs.

Shashikant S/o Laxman Pathak .. Respondent

Mr. K.J. Tandale, Advocate for the applicant

Mr. Bhosale, Advocate h/f Mr. S.P. Brahme, Advocate for the respondent

CORAM : N.W. SAMBRE, J.

DATE : 29/06/2016

ORAL ORDER :

Heard.

2. The complainant/applicant was plaintiff in Regular Civil Suit No. 453 of 1996 and during the hearing of the said suit, the respondent/accused was representing the side of the defendant. During hearing, the respondent-accused Advocate uttered the words : "वादी हा महाबदमाश मनुष्य आहे", which according to the applicant, are defamatory and the applicant was defamed in the open Court in presence of the Presiding officer / employees working in the Court, litigants and other public, who were present in the Court.

3. Based on the said incident, a complaint case for offences punishable under section 500 and 501 of the Indian Penal Code, pursuant to the provisions of section 199 of the Code of Criminal Procedure came to be initiated, which came to be dismissed by acquitting the respondent/accused vide order dated February 3, 2016 passed by the learned Judicial Magistrate First Class Court No.4, Ahmednagar. As such, the present application for leave to file appeal.

4. Heard Shri. K.J. Tandale, learned counsel for the applicant at length. He has tried to persuade this Court, to draw the conclusion from the available pleadings and the other documentary material, as is placed, that case for defamation and prosecution of the accused was made out and the accused should have been convicted for the offences in question.

5. Perused the entire record. There is hardly any material on record but for the evidence of the applicant. Furthermore, the attributions, which are claimed to be defamatory, are claimed to have been uttered during the hearing of a matter before the Court

by the Advocate representing one of the side in the suit.

6. In my opinion, in the above background, having regard to the fact that there is hardly any evidence available on record to conclude that the offence of defamation was made out to convict the accused. The impugned order, in my opinion, does not warrant any interference. As such, leave refused. Application stands dismissed.

[N.W. SAMBRE]
JUDGE

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