

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 1451 OF 2007

1. Pravin s/o Devidasrao Deshmukh,
Age : 45 years, Occ: Business,
R/o: Durga Colony,
Opp. J.E.S. College, Jalna.
2. Anant s/o Pandit Sali,
Age: 37 years, Occ.: Service,
R/o: Agrasen Nagar,
Near J.P.C. Colony, Jalna.

... APPLICANTS
(Orig. Accused Nos.1 and 2)

VERSUS

Manoj s/o Shripal Jain,
Age: 42 years, Occ. Service,
R/o: House No.45, C-Line,
Balaji Nagar, Near Jalna Road,
Aurangabad.

... RESPONDENT
(Orig. Complainant)

...
Mr. Vijay Sharma, Advocate for Applicants.
None for Respondent.

...

CORAM : **V. K. JADHAV, J.**
DATE : 30th November, 2016.

ORAL JUDGMENT:

. By this criminal application, the Applicants / original
Accused seek to quash and set aside the order of issuance of process

dated 8th March, 2006, passed by the learned Judicial Magistrate First Class, Aurangabad in S.C.C. No.1422 of 2006.

2 Brief facts giving rise to the present criminal application are as follows:

 The Respondent / original Complainant filed aforesaid private complaint against the Applicants and original Accused No.3 alleging therein that on 1st March, 2006 at 11:00 hours, Applicant / Accused No.2 contacted the Complainant on his mobile phone and thereafter, handed over two letters allegedly addressed by the Applicant / Accused No.1. It has further alleged in the complaint that those letters contained defamatory imputation to the effect that the Complainant is doing the business of money landing. It has also alleged in the complaint that the said letters contain some false statements. On the basis of the allegations made in the complaint, the learned Judicial Magistrate First Class, Aurangabad by impugned order dated 8th March, 2006 issued the process against the present Applicants and original Accused No.3 for the offence punishable under Section 500 read with 34 of the Indian Penal Code. Hence, this criminal application.

3 The learned counsel for the Applicants / original Accused submits that even accepting the contents of those letters as it is, no case is made out for issuance of the process against the Applicants / Accused. Those letters do not contain any defamatory statement as alleged in the complaint. The learned counsel submits that further those letters were addressed to Respondent / Complainant, and the Complainant read those letters personally and accordingly filed a complaint under Section 500 of the Indian Penal Code. The learned counsel submits that the letters were personally addressed to Respondent / Complainant and there is no publication as such. It has only alleged in the complaint that the Complainant read those letters within the premises of one college i.e. at the public place and therefore, ingredients of Section 499 stands attracted. The learned counsel submits that without applying the mind, the learned Magistrate has issued the process as a routine course.

4 None present for the sole Respondent / original Complainant.

5 On careful perusal of letter Exhibit – A, it appears that the letter was addressed to the Respondent / Complainant in his personal

capacity and there is no publication of any imputation with an intention to harm the reputation of the Complainant in the eyes of the public at large. On careful perusal of the said letter, it appears that Applicant No.1 / original Accused No.1 has brought to the notice of Respondent / Complainant his grievances and further stated in the letter that he got annoyed because of his conduct. Even accepting the allegations made in the complaint as it is, I do not think that case is made out for issuance of process under Section 500 of the Indian Penal Code. The learned Magistrate has passed the order without applying the mind. Hence, I proceed to pass the following order:

ORDER

- I. Criminal Application is hereby allowed in terms of prayer clause (C).
- II. Rule is made absolute in above terms.
- III. Criminal application is accordingly disposed of.

[V. K. JADHAV, J.]