

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 371 OF 2015

NEETA W/O SURESH DETH
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

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Advocate for Petitioner : Mr D R Jayabhar
APP for Respondent No.1 : Mr N T Bhagat
Advocate for Respondent 2 : Mr S S Jadhavar

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CORAM : V.K. JADHAV, J.

Dated: July 28, 2016

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PER COURT :-

1. Being aggrieved by the Judgment and order passed by the Principal District Judge, Ahmednagar dated 25.2.2015 in Criminal Revision Application No.14/2015 dismissing the Revision and confirming the order passed by the Magistrate issuing process against the present petitioner in SCC No.497/2014 for the offence punishable u/s 500 of Indian Penal Code, this writ petition is filed.

2. Brief facts, giving rise to the present writ petition are as follows :-

Respondent No.2 has filed a private complaint bearing SCC No.497/2014 against present petitioner for

commission of an offence of defamation u/s 500 of the Indian Penal Code. The complainant was serving as a Head Master in one Lalashet Bihani Vidya Mandir School, Rahuri. The petitioner is also serving there as a Clerk in the said school. On one occasion there had been a quarrel between the petitioner and one head clerk namely Sanjay Jangam. However, the respondent-complainant has not taken side of either of them. Consequently, the petitioner/original accused got annoyed and filed a false complaint dated 2.3.2011 against the respondent-complainant and one another. In the said complaint, present petitioner/original accused alleged that said Head Clerk Sanjay Jangam as well as present respondent/complainant outraged her modesty and threatened to ruin her service record. Furthermore a news item to that effect is also published in daily news paper Pudhari dated 3.3.2011. It was published in the Newspaper that Headmaster of that School had outraged modesty of a lady clerk for which offence came to be registered in Rahuri Police Station. It has alleged in the complaint that, due to publication of the said news item, image of the respondent-

complainant was lowered down in the society since said news item was read over by several persons including friends, relatives, colleagues of complainant. It is further averred in the complaint that on 7.3.2013 present petitioner wrote a letter to Deputy Director of Education, Education Department, Pune levelling defamatory allegations against him. In the said letter petitioner wrote that respondent-complainant committed cheating and mis-appropriation. According to the complainant, his image was lowered down in the eyes of public, friends, relatives, students and staff members. Thus, he has filed a complaint as stated above before the Magistrate. The learned Magistrate took cognizance of the said complaint and after examination of the complainant on oath, issued process against the present petitioner/original accused for the offence punishable u/s 500 of the Indian Penal Code. Being aggrieved by the same, the present petitioner has preferred Criminal Revision Application No.14/2015 before the Sessions Judge, Ahmednagar. The learned Sessions Judge, Ahmednagar as stated above dismissed the said revision by confirming the order passed by the Magistrate.

Hence, this Writ Petition.

3. The learned counsel for the petitioner submits that, petitioner is a woman and permanent employee of the said Institution. On the basis of the complaint lodged by the petitioner, Criminal Case Bearing STC No.823/2011 came to be registered and accordingly present respondent no.2 and one other person came to be tried. The learned Magistrate acquitted both for the charges levelled against them. Learned counsel submits that, mere result of the acquittal in the said case cannot be construed as a case to initiate the action for defamation. Learned counsel submits that, so far as news item published in the news paper dated 3.3.2011 is concerned, that pertains to the registration of the offence on the basis of the complaint lodged by the petitioner and nothing more than that. Learned counsel further submits that, so far as letter send by the petitioner dated 7.3.2013 to the Deputy Director of Education is concerned, the contents of the said letter are not sufficient to constitute the offence of defamation. Learned counsel submits that, the petitioner has simply

informed the superiors about the state of affairs in the Institution and the same does not disclose an offence punishable u/s 500 of the Indian Penal Code. Learned counsel submits that, the petitioner is a woman and the management has already initiated Departmental Inquiry against her. She is being harrassed by one or another reason and present complaint of defamation is also outcome of the same.

4. Learned counsel for the petitioner in order to substantiate his contentions places reliance on following judgments :-

- I] Amit Kumar Alias Mittal Vs. State of UP and ors. Reported in 2011 Cri.L.J. 3710.
- II] Shatrughna Prasad Sinha Vs. Rajbhau Surajmal Rathi and ors. Reported in 1996 AIR SCW 4030.
- III] Dr. Vishnu Dutt Agarwal Vs. State of U.P. And anr. Reported in 2012 Cri.L.J. 3595.
- IV] Darusing Durgasing Vs. State of Gujarat and another reported in 2006 Cri.L.J. 720.
- V] Harbhajan Singh Vs. State of Punjab and another reported in AIR 1996 Supreme Court 97.
- VI] L.Usha Rani Vs. State of Kerala and another reported in 2014 Cri.L.J.692.

VII] Jeffrey J. Diermeier and another Vs. State of W.B and another reported in 2011 Cri.L.J. (supp) 756.

5. Learned counsel for respondent no.2/original complainant submits that, the learned Sessions Judge has considered the contents of the letter dated 7.3.2013 sent by the petitioner to the Deputy Director of Education. The said letter has been sent by levelling certain allegations. It has stated in the said letter that respondent-complainant is a person of criminal tendency and he had deceived the Government officers as well as misappropriated the funds. Said letter was addressed to the Deputy Director of Education and copies have been given to the Chief Accountant General, Bombay, Directorate of Education, Pune, the Education Officer, Secondary Zilla Parishad, Ahmednagar, Superintendent of Pay and GPF Zilla Parishad, Ahmednagar, and to Secretary Rahuri Education Society, Rahuri. Learned counsel submits that, even though letter is addressed to the Deputy Director of Education, copies of the said letter have been given to the various authorities and thus prima facie there is evidence that it was made known to others also.

Learned counsel submits that, the Magistrate has, therefore, rightly issued process against petitioner accused for the offence punishable u/s 500 of the Indian Penal Code. The learned Sessions Judge accordingly confirmed the said order in revision. No interference is required. Petition deserves to be dismissed.

6. So far as complaint lodged by the petitioner against respondent-complainant and one Sanjay is concerned, on the basis of her complaint criminal case bearing SCC No.823/2011 came to be registered and accordingly both of them were tried by the Magistrate. Though learned Magistrate expressed doubt about the credibility of evidence of the present petitioner, learned Sessions Judge has rightly observed that in a criminal case the burden on prosecution is quite heavy to establish the guilt of the accused beyond reasonable doubt. I do not find any fault in the observations made by the learned Sessions Judge that mere acquittal in the said case would not give any cause to initiate action for defamation. So far as news item published in the

daily newspaper Pudhari dated 3.3.2011 is concerned, that is merely a reproduction of crime which was already registered in the police station Rahuri with certain allegations made in the complaint lodged by the present petitioner.

7. So far as second part of the alleged defamation is concerned, it pertains to the letter dated 7.3.2013 written by the present petitioner to the Deputy Director of Education and copies of the same sent to various authorities. In the said letter, there are allegations against the respondent/complainant about his criminal tendency and that he had misappropriated the funds and deceived the Government. These allegations are prima facie attracts the ingredients of Section 500 of the Indian Penal Code. I do not find any fault in the judgment and order passed by the learned Sessions Judge, Ahmednagar in Criminal Revision Application No.14/2015. No interference is required. There is no substance in the writ petition. Hence, following order is passed.

ORDER

Writ Petition is hereby dismissed.

(V.K. JADHAV, J.)

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