

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

CRIMINAL APPLICATION NO. 2051 OF 2004

Bhalchandra Yashwantrao Deshpande

Age : 54 Yrs., Occ. : Journalist,

R/o : 4, Janakpuri Vasahat,

Garkheda Parisar, Aurangabad. **APPLICANT**

VERSUS

01. The State of Maharashtra

Through the Superintendent
of Police, Jalna.

02. Mr. R.M.Patil

Police Inspector,

Age : about 40 Yrs.,

Police Station Mantha,

Tq. Partur, Dist. Jalna.

03. Vasant Keshavrao Akolkar

Police Inspector,

Age : about 42 Yrs.,

Police Station Partur,
Tq. Partur, Dist. Jalna.

04. Mohanrao Vithalrao Jadhav

Assistant Police Inspector,

Age : about 46 Yrs.,

Police Station Gondl,

Tq. Ambad, Dist. Jalna.

05. Kundlik Kondaji Badag

Police Inspector,

Age : about 41 Yrs.,

Police Station Ambad,

Tq. Ambad, Dist. Jalna.

06. Vishwas Raosaheb Nimbalkar

Police Sub Inspector,

Age : about 46 Yrs.,

Police Station Ghansawangi,

Tq. Ghansawangi, Dist. Jalna.

07. Shrikant Madhavrao Phulzalke

Assistant Police Inspector,

Age : about 42 Yrs., **NON APPLICANTS/**

Police Station Ashti, **[ORIGINAL**

Tq. Partur, Dist. Jalna. **COMPLAINANTS]**

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Mr. S.S.Bora, Advocate for Applicant.

Mr. A.R.Kale, A.P.P. for Non-applicants.

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CORAM : Z.A.HAQ, J.

DATE OF JUDGMENT : 6th DECEMBER, 2016

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ORAL JUDGMENT :

01. Heard Mr. S.S.Bora, learned Advocate for the Applicant and Mr. A.R.Kale, learned A.P.P. for the non-applicants.

02. The applicant has approached this Court praying that the criminal cases filed against him for the offences punishable u/ss 500,501,502 and 504 of the Indian Penal Code be quashed.

03. According to the applicant, the non-applicant Nos. 2 to 7 filed complaints before the various police stations against him alleging that the publication of news item in daily "Lokmat" dated 16/12/2001 under the caption, "विशेष पोलीस महानिरीक्षकांच्या तपासणी मोहीमेची जोरदार तयारी" is per-se defamatory and false and, therefore, the present applicant, who is the concerned co-respondent for supplying the news item, is liable to be prosecuted and convicted and on the basis of the complaints, investigation is conducted and charge sheet is filed against the applicant. The submissions on behalf of the applicant are that :

[i] The contents of the news item can not be said to be defamatory and intended to cause any damage to the reputation of the complainants.

[ii] That the applicant has reported the factual scenario prevailing at the relevant time and there is nothing against the police

department or any police personnel.

[iii] Alternatively, it is submitted that the police department can not be said to be a collection of persons to enable the complainants to file and maintain the complaints against the applicant for the offences punishable u/ss 500,501,502 and 504 of the Indian Penal Code.

[iv] To support the submissions, the learned Advocate for the applicant relied on the Judgment given in the case of **G.Narasimhan, G.Kasturi & K. Gopalan Ors. Vs. T.V.Chokkappa reported in (1972) 2 SCC 680**, Judgment given in the case of **Sasikumar B.Menon Vs. S.Vijayan & Anr. reported in 1998 Cri.L.J. 3973**, Judgment given in the case of **K.M.Mathew & Ors. Vs. T.V.Balan reported in 1985 Cri.L.J. 1039**, Judgment of Kerala High Court given in the case of **M.P.Narayana Pillai**

& Ors. Vs. M.P.Chacko & Anr. reported in 1986 Cri.L.J. 2002, Judgment given by the Division Bench of Madras High Court in the case of **R.Rajagopal @ R.R.Gopal @ Nakkheeran Gopal & Anr. Vs. J.Jayalalitha & Anr. reported in AIR 2006 Madras 312**, Judgment given in the case of **Korra Srinivas Rao s/o Krishnamurthy & Anr. Vs. State of Maharashtra & Ors. Reported in 2002 (4) Mh.L.J. 368**.

04. The learned A.P.P. has opposed the application of the applicant. The learned A.P.P. has not been able to controvert the submission made on behalf of the applicant that non-applicant Nos. 2 to 7 made complaints to various police stations, investigation was conducted on the complaints without verifying that the complaints did not make out any non cognizable offence, and charge sheets came to be filed against the applicant. The facts on record show that the investigation is conducted

overlooking the provisions of Section 155 (2) of the Code of Criminal Procedure. In the Judgment given in the case of **Korra Srinivas Rao s/o Krishnamurthy & Anr. Vs. State of Maharashtra & Ors. Reported in 2002 (4) Mh.L.J. 368**, this Court has laid down that unless the F.I.R. sufficiently discloses the material to disclose the cognizable offence, the police authorities will not be justified in conducting investigation. As the charge sheets are filed on the basis of investigation conducted overlooking the bar u/s 155 (2) of the Code of Criminal Procedure, the Magistrate can not take cognizance of the same. Therefore, STC No. 59/2002 for the offence punishable u/s 501 of the Indian Penal Code, STC No. 60/2002 for the offence punishable u/s 501 of the Indian Penal Code and Crime No. 320/2001 for the offences punishable u/ss 501, 502 of the Indian Penal Code pending before the Judicial Magistrate, First Class, Partur, district Jalna and STC No. 108/2002 for the offences punishable u/s 500,501,504 of the Indian Penal Code, STC No. 110/2002 for the offences punishable u/ss 500,501,504 of the Indian Penal Code

and Complaint Case No. 111/2002 for the offences punishable u/ss 500,501,504 of the Indian Penal Code pending before the Judicial Magistrate, First Class, Ambad, district Jalna filed against the applicant are required to be quashed. As the cases filed against the applicant are quashed accepting the challenge based on Section 155 (2) of the Code of Criminal Procedure, the other submissions made on behalf of the applicant are not examined.

Hence, the following order :

- (i) Complaint STC No. 59/2002 for the offence punishable u/s 501 of the Indian Penal Code, STC No. 60/2002 for the offence punishable u/s 501 of the Indian Penal Code and Crime No. 320/2001 for the offences punishable u/ss 501, 502 of the Indian Penal Code pending before the Judicial Magistrate, First Class, Partur, district Jalna and STC No. 108/2002 for the offences punishable u/s 500,501,504 of the Indian Penal

Code, STC No. 110/2002 for the offences punishable u/ss 500,501,504 of the Indian Penal Code and the Complaint Case No. 111/2002 for the offences punishable u/ss 500,501,504 of the Indian Penal Code pending before the Judicial Magistrate, First Class, Ambad, district Jalna filed against the applicant are quashed.

- (ii) Rule made absolute in the above terms.
- (iii) In the circumstances, the parties to bear their own costs.

[Z.A.HAQ, J.]