

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 159 OF 2015

Tarakant Devnarayan Dwivedi @ Akela ... Applicant.

V/s.

State of Maharashtra and Anr. ... Respondents.

None for Applicant.

Mr. S. K. Shinde, PP a/w. K. V. Saste, APP for the State.

**CORAM : V. M. KANADE AND
Ms. NUTAN D. SARDESSAI, JJ.**

DATE : 16th NOVEMBER, 2016

P.C. :

1 None appears on behalf of the Applicant. Heard the learned public prosecutor for the State.

2 Respondent No.2 has filed a private complaint against the Applicant which was registered as C.R. No. 4 of 2015 with Kolsewadi Police Station, Kalyan Dist. Thane for the offence punishable under section 66 (A) of the Information Technology (IT) Act, 2000 and under sections 500 and 501 of the Indian Penal Code.

3 The brief facts of the case are that the Applicant, who is a Press Reporter by profession, has published an article about the pathetic condition of the store room where weapons / arms are stored by the State Government. This article was published by the Applicant in daily newspaper “Mumbai Mirror” on 28.06.2010. It appears that the private complaint was filed by an individual under the Indian Official Secrets Act, 1923 and the FIR was registered vide C.R. No. 171 2010 against the applicant. The Applicant then approached this court by filing Criminal Application being Criminal Application No.1088 of 2011, wherein a statement was made by the Advocate General, informing the court that a closure report would be filed in respect of the said complaint.

4 Thereafter, the applicant published various other articles in the newspapers. A complaint, therefore, was lodged against the applicant under section 66A of the Information Technology Act, 2000 and under sections 500 and 501 of the Indian Penal Code.

5 So far as sections 500 and 501 are concerned, those are non cognizable offences and as such, therefore, a FIR cannot be registered for the commission of the said offences and at the most a N.C. complaint can be registered by the Police. So far as section 66A of the Information Technology (IT) Act, 2000 is concerned, the Apex Court in the case of

Shreya Singal vs. Union of India in Writ Petition No.167 of 2012 has declared section 66A of the Information Technology Act, as ultra virus to the Constitution of India.

6 The learned counsel appearing on behalf of the State has informed us that in view of this decision of the Apex Court, the police have now registered the said offence as N.C. complaint. In view of this subsequent development, therefore, this criminal application does not survive. The FIR is, therefore, quashed, reserving the rights of the aggrieved persons to take out appropriate proceedings before the competent authority under sections 500 and 501 of the Indian Penal Code.

7 The Petition is accordingly allowed and is disposed of in the aforesaid terms.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J.)

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