

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.267 OF 2015

GEETA GAWDE NEE GEETA WARIK)...APPLICANT

V/s.

K.T.RAO AND OTHERS)...RESPONDENTS

Shri Hemant Kenjalkar, Advocate for the Applicant.

Shri Shreeram Shirsat, Advocate for Respondent No.1.

Smt.M.R.Tidke, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 18th MARCH 2016.

P.C. :

1 The applicant is the original complainant. She had prosecuted respondent nos.1 and 2 alleging commission of offences punishable under Section 500 of the Indian Penal Code (IPC) and Section 506 (Part I) of the IPC read with Section 34 thereof. The

Judicial Magistrate First Class, at Pune, after holding a trial acquitted the respondent nos.1 and 2. Being aggrieved by the said order of acquittal, the applicant has filed the present application seeking special leave of this court to file an appeal therefrom.

2 I have heard Shri Hemant Kenjalkar, the learned counsel for the applicant, and Shri Shreeram Shirsat, the learned counsel for respondent nos.1.

3 I have glanced through the impugned judgment.

4 The complainant's basic case, as put forth before the Magistrate, was that, she was defamed by two communications i.e. e-mail sent by respondent no.1 in reply to the e-mail sent by the applicant, and a reply letter dated 22nd December 2009 sent by respondent no.2 for M.B.Software Pvt. Ltd. Admittedly, these two communications have been forwarded to the applicant herself. It is not and was not the case of the applicant that this defamatory matter was published by any of the respondents by

communicating the same to any one else, except the applicant. The aspect of publication being absent, there was no *prima facie* case of an offence punishable under Section 500 of the IPC.

5 So far as the allegation of an offence punishable under Section 506 (Part I) of the IPC is concerned, the same is also based on the communication at Exhibit 64. The threat given is said to be of instituting civil and criminal proceedings against the applicant. Such a threat cannot constitute criminal intimidation.

6 There is no case for granting leave to file an appeal.

7 Leave refused.

8 The application is rejected.

(ABHAY M. THIPSAY, J.)