

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

**WRIT PETITION NO. 1284 OF 2016**

|                                   |                 |
|-----------------------------------|-----------------|
| Virendranath Bhagwatprasad Tiwari | ... Petitioner  |
| <b>vs.</b>                        |                 |
| The State of Maharashtra & anr.   | ... Respondents |

Mr. V. B. Tiwari, Petitioner in person.  
Mr. S. R. Agarkar, A.P.P. for the State/respondent no.1.  
Mr. Mahesh Vaswani a/w Ms. Dharini Nagda a/w Ms. M.  
Mohanta, Advocate for respondent no.2.

**Coram** : Smt. R. P. SondurBaldota, J.  
**Date** : 13<sup>th</sup> January, 2017

**P.C. :**

**1.** The petitioner, who is practicing a advocate, has filed this petition in person to challenge the order dated 10<sup>th</sup> March, 2016 passed by the Sessions Court, Mumbai rejecting his Revision Application No.141 of 2016, which was filed against the order dated 20<sup>th</sup> January, 2016 passed by the trial Court dismissing his application of dropping proceedings in CC No.3226/SS/2008 against him.

**2.** The application under Section 258 of Criminal Procedure Code filed by the petitioner was based on the consent terms filed by the parties before the Apex Court in Special Leave Petition (Civil) No.1480 of 2013. Para 5 of the consent terms which is relied upon by the petitioner records an undertaking by respondent no.2 that she would withdraw all civil and criminal litigations against the existing office bearers of People's Education Society and Employees and officials of affiliated colleges within a period of one week from the execution of the

consent terms, by filing appropriate application for withdrawal/compounding and/or quashing of the cases. The Courts below have noted that on the date of filing of the petition, the petitioner was not an office bearer of the People's Education Society. He had retired from the service in the year 2011. Therefore he is not be covered by the consent terms. As such the petitioner cannot compel respondent no.2 to withdraw the proceedings against him.

**3.** The second reason set out in the order of Sessions Court is that the complaint filed by respondent no.2 against petitioner for the offence punishable under Section 500 of Indian Penal Code discloses several letters written by the petitioner wherein defamatory language has been used against her. The complaint discloses the incidents in which those letters were circulated to the police as also the students in the college. Thus, there is publication of the defamatory statement. Therefore there was sufficient material on record to proceed against the petitioner.

**4.** Bare reading of para 5 of the consent terms dated 26<sup>th</sup> March, 2014 is sufficient to note that the same cannot be applied to the petitioner, who had retired from service in the year 2011. As such there can not be an order of dropping of the proceedings against the petitioner. Besides there is satisfaction recorded by the Courts below as regards the material available on record to proceed against the petitioner for the offence punishable under Section 500 of Indian Penal Code. In the circumstance, there is no merit in the petition. The petition is dismissed.

**[Smt. R. P. SondurBaldota, J.]**