

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.565 OF 2016

SUNIL JAIN

)...APPLICANT

V/s.

DIVESH SHANTARAM KOLI AND ORS.

)...RESPONDENTS

Mr.S.K.Pandey, Advocate for the Applicant.

Ms.A.A.Takalkar, APP for the Respondent – State.

Mr.Rohit Pande, Advocate for the Respondents.

CORAM : A. M. BADAR, J.

DATE : 1st FEBRUARY 2017.

P.C. :

1 By this revision application, the revision petitioner / original accused is challenging the order dated 12th July 2016 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Greater Bombay, Mumbai, in Criminal Revision

Application no.595 of 2015 thereby quashing the impugned order directing issuance of process under Section 500 of the IPC against accused persons in the complaint lodged by the present revision petitioner before the Metropolitan Magistrate.

2 Heard the learned advocate appearing for the revision petitioner / original complainant. He drew my attention to the communication dated 7th April 2013 addressed to the Bombay Stock Exchange Limited by SVC Resources Ltd., and argued that Item No.1 of this communication demonstrates that the revision petitioner / original complainant was defamed by accused persons, and therefore, the learned Metropolitan Magistrate has rightly issued process against them for the offence punishable under Section 500 of the IPC. The learned advocate placed reliance on **Shri Satyabhash Yeshwant Salgaonkar vs. Ravindra Madhukar Sawant & Ors.**¹ and submitted that in a similar case, this court had quashed the impugned order.

1 2016 ALL MR (Cri) 2903

3 I have also heard the learned advocate appearing for the respondents, so also the learned APP. They justified the impugned order.

4 I have carefully considered the rival submissions and also perused the material available on record. A complaint for the offence punishable under Section 500 of the IPC was filed by the revision petitioner before the learned Metropolitan Magistrate and upon hearing, the learned Metropolitan Magistrate directed issuance of process for the offence punishable under Section 500 of the IPC. Perusal of the complaint shows that the revision petitioner was aggrieved by the agenda of the meeting of the Board of Directors of SVC Resources Ltd. Item No.1 of the agenda of the meeting of Board of Directors scheduled to be held on 11th April 2013 reads thus :

“1) To consider the report prepared by Managing Director, Mr.Ashok Gupta with regard to fraud perpetuated in mining activity in Jabalpur, Armania & Ghana by professional Directors (Ex) Mr.Sunil B.

Jani, Mr.Vishal Singh, Mr.Mukesh Arora, Mr.Ashis Lodge & Mr.Rajesh Kapoor along with others.”

5 It is seen that from the communication dated 7th April 2013 that the intimation to the Bombay Stock Exchange Limited was in pursuant to Clause No.22 and Clause 36 of the listing Agreement. It is, thus, clear that intimation to the Bombay Stock Exchange Limited was as per the listing Agreement, and as such, it cannot be said that unnecessary this communication was addressed to the said applicant.

6 Perusal of the communication dated 7th April 2013 goes to show that Item No.1 pertains to the agenda of the meeting and the Board of Directors was called upon to consider the report of the Managing Director of the Company. What is stated in the agenda is the nature of the report prepared by the Managing Director. It cannot be said that such report amounts to defamation. The learned court below has rightly come to the conclusion that there is no material to proceed against the accused persons.

7 In the matter of **Shri Satyabhash (supra)** in paragraph 9 of the judgment, it is held that the circular contains defamation matter. Such is not the case in hand. The notice of Board Meeting with the agenda cannot be said to be defamatory to the complainant.

8 In this view of the matter, no error of law or patent illegality can be found in the impugned order.

9 The revision application, therefore, fails, and the same is dismissed.

(A. M. BADAR, J.)