IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4598 OF 2014

Dr. Sandip Mrinmoy Chakrabarty .....Petitioner

V/s.

1. State of Maharashtra and anr. .....Respondents

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Mr. Tapan Thatte, Advocate for the petitioner.

Ms. Pallavi Dabholkar, APP for respondent no.1, State.

Mr. Sanjay Bhojwani a/w. Mr. V.R. Sutaria, Advocate for respondent no.2.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 1ST FEBRUARY, 2017.

P.C. :-

1). By this petition, the petitioner seeks to challenge the order dated 13th May, 2014 passed by the trial Court issuing process against him for the offence punishable under Section 497 Indian Penal Code. Respondent no.2, is the original complainant. He filed complaint against the petitioner of adulterous relationship with his wife. The petitioner had unsuccessfully challenged the order of issuance of process by filing Criminal Revision Application No. 77 of

2014 to the Sessions Court. His application is dismissed by the order dated 18th May, 2014.

2). The two arguments advanced by the learned Advocate appearing for the petitioner are that, the statement in verification of respondent no.2 does not make out the ingredients of the offence punishable under Section 497 IPC. According to him, there are inconsistencies in the statement in verification of the complainant. Some of the incidents stated in the complaint have not been mentioned in the statement in verification and some of the incidents have been differently narrated in the statement in verification. His second argument is that, respondent no.2 cannot be said to be an aggrieved person because there is delay of 2 years in filing the complaint. According to him, since respondent no.2 had kept quiet for a long period of 2 years, it would mean that, he had no grievance against the petitioner.

3). Perusal of the impugned order shows that, the same have been passed after detailed consideration of the statements in verification and considering sufficiency of the material therein. This Court has also carefully gone through the statement in verification. Undoubtedly, respondent no.2 has not narrated every incident stated in the complaint in his statement in verification. Some of the incidents have been omitted from the statement. However, as long as the complaint and the statement in verification make out the ingredients of the offence, mere omission of all the details therefrom is inconsequential. As regards one of the incidents being stated differently, the same principle would apply. That difference

would not affect the impugned order because of the other material available in the statement in verification. Therefore, this Court finds no substance in the argument that there is no material on record for issuance of process against the petitioner.

4). As regards the argument of respondent no.2 not being an aggrieved person, the same needs to be rejected outright. Merely because, respondent no.2 showed some patience before proceeding for prosecuting the petitioner, it cannot be said that he is not an aggrieved person. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)