

BDP-SPS

Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 54 OF 2016**

Satprakash S/o Jagatram Goyal Applicant.

V/s

State of Maharashtra and Anr Respondent.

Smt. Racheeta R. Dhuru i/b Mr. P.Y. Shankar for the Applicant.
Mr. A.R. Kapadnis, APP for Respondent No.1.
Mr. Chandrakant K. Talekar for Respondent No.2.

CORAM: NITIN W. SAMBRE, J.

DATE: NOVEMBER 27, 2019

P.C.:-

- 1] Applicant and Respondent No.2 are real brothers.
- 2] Respondent No.2 was prosecuted for the offence punishable under Section 500 read with section 114 of IPC in C.C. No.2154 /SS/ 2008, resulting in his acquittal on 23/11/2015. As such, this application.
- 3] The case of complainant/applicant is, the accused issued defamatory letters dated 16/05/1993 and 16/8/1993 which were circulated amongst relatives, friends, business associates, public offices

and banks with an intention of maligning reputation and image of the complainant. As such, offence in question.

4] So as to establish necessary ingredients for an offence under Sections 499 and 500 of IPC, complainant has examined four witnesses, including himself.

5] So as to establish the case, complainant has examined C.W. 2 – Kanwar Vilas Nath, who, in cross-examination, has admitted that he has not verified from the envelope in which defamatory article was received, as to who has signed and forwarded the same. As such, very source of defamatory article to be that of Respondent No.2 – Accused is not established from the deposition of C.W.2.

6] C.W. 3 – Rumesch Chandrana, a bank employee, has produced photo copy of defamatory letter dated 16/8/1993 which was also not proved. He was also unable to establish, as to whether the said letter which was circulated was defamatory and had brought disrepute to the image of the complainant. Rather, in the observations of the learned Magistrate, it has come on record that the letter-Exhibit-74

has an endorsement and seal of the court of the learned Magistrate, which fact is not explained by this witness in his evidence. As such, very source of Exhibit-74 is under doubt. As the publication of defamatory material was not established as contemplated under Section 499 of IPC, the acquittal ordered by the learned Magistrate in complaint case does not warrant any indulgence. Hence, leave is refused.

(NITIN W. SAMBRE, J.)