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

CRIMINAL APPLICATION NO.311 OF 2018

Mahesh Nenshi Shah

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Mr. Pratik Surti i/b Mr. R. Sathyanarayanan, for the Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent No.1 - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 8th NOVEMBER, 2019

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant has impugned the order dated 8th October, 2016, passed by the learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai, below Exhibit – 1 in C.C. No.553/SS/2016, by which the applicant's complaint was dismissed under Section 203 of the Criminal Procedure Code, as well as the order dated 30th January, 2018, passed by the learned Additional Sessions Judge, Bombay City Civil and Sessions Court, Greater Bombay, by which the applicant's Revision Application was dismissed

and the order passed by the learned Metropolitan Magistrate was confirmed.

3. Perused the papers. The applicant and the Respondent No.2 are brothers. It appears that there was a dispute between the applicant and the respondent no.2 with respect to distribution of the family properties, culminating into various litigation *inter se* amongst the parties and other family members. It appears that the respondent no.2 filed a written complaint on 20th February, 2016, with the Senior Inspector of Police, Ghatkopar Police Station, Mumbai, as against the applicant and others, alleging offences of forgery etc. According to the applicant, the allegations were false. It appears that on the basis of the complaint lodged by the respondent no.2 with the Ghatkopar Police Station, investigation was conducted and after investigation, the police came to the conclusion that there was no substance in the complaint and that the dispute was civil in nature. The applicant obtained a copy of the said complaint under the Right to Information Act. According to the applicant, the contents and averments made in the said complaint by the respondent no.2, as against the applicant were defamatory and as such the publication of the same had lowered his prestige in the eyes of the society. According to the applicant, the respondent no.2 had in his complaint stated that the applicant and his associates were anti-social elements and were connected with anti-social elements and gundas and white collar criminals. In view of the

allegations made by the Respondent No.2 in his complaint, the applicant filed a complaint as against the Respondent No.2, in the Court of the learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai, (C.C. No.553/SS/2016), alleging an offence punishable under Section 500 of the Indian Penal Code. The learned Metropolitan Magistrate recorded the verification statement of the applicant and after recording the verification statement and hearing the submission, came to the conclusion that no offence as alleged was made out on the basis of the facts stated in the complaint lodged by the respondent no.2.

4. Accordingly, the learned Metropolitan Magistrate dismissed the applicant's complaint under Section 203 of the Criminal Procedure Code, vide order dated 8th October, 2016. The said order was challenged by the applicant in Revision. The Revisional Court vide order dated 30th January, 2018, has in detail considered the submissions of the applicant and has rejected the Revision Application of the applicant by observing that the impugned order was legal, proper and reasoned order. The allegations made by the Respondent No.2 in his complaint to the Police Officer does not show that there was any intention to defame the applicant in the Society.

5. Having perused the impugned orders, no infirmity can be found in the said orders warranting interference by this Court, under Section 482 of the Code of Criminal Procedure. Hence, the application is dismissed.

REVATI MOHITE DERE, J.