

Yashwant Ladku Gaikwad & Ors.	..	Petitioners
Vs		
Surendra Baburao Bhandare & Anr.	..	Respondents
...		

Mr. H.J. Dedhia, A.P.P. for the State.

DATED : 23RD SEPTEMBER, 2019.

1. The present Criminal Writ Petition revolves around a news item published in weekly newspaper “Samvad Vyaspeeth” and the present Petitioners before the Court is the publishers of the said weekly newspaper.

2. A complaint was lodged by one Mr. Surendra Baburao Bhandare before the learned Chief Judicial Magistrate, Satara for offence punishable under Sections 499 and 500 read with Section

34 of the IPC. In the said complaint, it was alleged that the Complainant is a resident of Lomanekhol, Taluka, District Satara and he own agricultural land in Satara. It proceeds to state that his parents are also residents of Satara and he is carrying on his business activity at Nalasopara. The Complainant specifically avers that he frequently travels to Satara to manage and maintain his family and agricultural land. The complaint proceeds to state that in pursuance of an advertisement issued by the Vasai Virar Municipal Corporation inviting tender for supply of security guards, the Complainant was allotted the tender to supply the necessary workforce. There was no grievance made on any front in respect of the allotment of the tender to the Complainant. However, the Petitioners published an article in their weekly newspaper imputing that the Complainant had deputed less number of security persons; manipulated the records and cheated the Municipal Corporation with the help of its officers. A specific statement is made in the complaint that the Petitioners have published defamatory article in the newspaper which was read not only in the vicinity of Vasai Virar Municipal Corporation but also at the native village of the Complainant in District Satara. It is then alleged that the said article intended to tarnish the image of the Complainant and had the desired effect of bringing down his social status and also causing business loss.

3. With this complaint, the Complainant approached the

Judicial Magistrate, First Class, Satara who recorded his statement on oath. He also tendered certain documents and, the learned Magistrate on being satisfied that a case has been made out for issuance of process, vide Order dated 15/11/2014 issued the process to the Petitioners for the offences punishable under Sections 500 and 501 of the IPC.

4. The said order of issuance of process came to be assailed before the Sessions Court at Satara in Criminal Revision No.6 of 2015. By Order dated 27/02/2017, the said Criminal Revision came to be dismissed. Unsuccessful on the two counts, the Petitioners have invoked the jurisdiction of this Court.

Learned counsel for the Petitioners at the outset raise an objection to the maintainability of the complaint before the Magistrate at Satara and the issuance of process by the said Magistrate and he would submit that in the light of Section 179 of the Cr.P.C. the concerned Magistrate lacks the territorial jurisdiction to take cognizance of the said complaint. Learned counsel would also submit that before issuance of the process, it was imperative for the Magistrate to follow the mandate of Section 202 of the Cr.P.C. and, in particular, in view of the amendment which was brought in force w.e.f. 23/06/2006, and on failure to adhere to the settled principles to be followed in terms of the Cr.P.C., the order of the said Magistrate is not sustainable.

5. It is no doubt true that the jurisdiction of the criminal courts in inquiries and trials is as set out in Chapter XIII of the Cr.P.C. and the ordinary place for inquiry and trial of an offence, is the Court within whose local jurisdiction the offence was committed. Section 179 reads thus:

“179. Offence triable where act is done or consequence ensues. When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.”

However, perusal of Section 179 of the Cr.P.C. would disclose that when an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

6. What thus emerges from Section 179 is that not only the place where the act has been done but even the place where the consequences of the said act have ensued would determine the jurisdiction of the Court to inquire into or try the offence. By

virtue of Section 179, even the Courts within whose local jurisdiction the repercussion or the effect of criminal act is felt would have jurisdiction to inquire or try the offence. The learned counsel for the Petitioners has vehemently argued that the weekly newspaper was published from Nalasopara and, therefore, the complaint ought to have been filed before the Magistrate who has territorial jurisdiction over the said area. The offence of defamation which is defined in Section 499 of the IPC relates to the words either spoken or intended to be read, which are made or published containing any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, and in such circumstances, it is said that the publication would defame that person. Publication of an article or write up may be confined to a particular place, however, its effect can be felt by any person who reads the said article or write up and this cannot be surely restricted to the place where it is published. Defamation of character occurs when someone makes a false statement that causes some harm to the reputation. The reputation of a person is said to be harmed when the imputation is of such nature that in the estimation of others, it lowers the moral or intellectual character of that person or lowers the character of that person in respect of his calling. In such circumstances, when the Complainant has specifically averred that he is a resident of Satara and carrying on his business in Nalasopara and a specific averment is made in the

complaint to the effect that the news item/publication published by the accused persons was read by people in Satara, he proceeded to the Magistrate to lodge the complaint.

I do not find any jurisdictional infirmity since in accordance with Section 179 Cr.P.C., the Magistrate possessed the jurisdiction to take cognizance of the case as the consequence of the publication by the accused has ensued within his territorial jurisdiction.

7. As far as Section 202 of the Cr.P.C. is concerned, it is no doubt true that pursuant to the amendment in the said Section if the accused persons are residing beyond the territorial jurisdiction then the Magistrate is expected to postpone the process and conduct an inquiry. The record reveals that the Magistrate has recorded the statement of the Complainant on oath and after going through the record the process came to be issued. The Magistrate was *prima facie* satisfied after he followed the mandate contained in Section 202 of the Cr.P.C., so as not to harass the accused located in a jurisdiction beyond his territorial limits.

In such circumstances, on being satisfied on the basis of material brought before him, the Magistrate has issued the process. Since there is no legal infirmity in exercise of the jurisdiction by the Magistrate, and the order has rightly been upheld by the Sessions

Court, I am not inclined to entertain the present petition and direct its dismissal.

8. Criminal Writ Petition is accordingly dismissed with no order as to costs.

(SMT. BHARATI DANGRE, J.)