

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5340 OF 2019

**EKTA AMITKUMAR SINGH @ EKTA)
SURYAPRATAP SNGH)...PETITIONER**

V/s.

VIDYA JITENDRA SINGH AND ANR.)...RESPONDENTS

Dr.Samarth Karmarkar a/w. Mr.S.R.Samukhrao i/b. Karmarkar
and Associates, Advocate for the Petitioner.

Mr.S.V.Gavand, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 6th FEBRUARY 2020

P.C. :

1 By this petition, the petitioner/original complainant is
challenging the revisional order passed by the learned Additional
Sessions Judge, Sessions Court, Greater Mumbai, on 17th July
2019 so far as it relates to quashing the process issued by the
learned Metropolitan Magistrate, 32nd Court, Bandra, Mumbai, on
21st August 2018 in Criminal Case No.1863/SS/2016 against the

respondent no.1 herein/original accused no.4 for the offence punishable under Section 500 read with 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the petitioner /original complainant. He drew my attention to paragraph 17 of the complaint and argued that there is enough material to proceed against the respondent no.1 herein/original accused no.4 for the offence punishable under Section 500 read with 34 of the Indian Penal Code. In his submission, the learned revisional court has committed error in quashing the order issuing process against the respondent no.1 herein/original accused no.4.

3 I have considered the submissions so advanced and also perused the material placed on record.

4 The subject complaint lodged by the petitioner herein is principally against accused no.1 as well as accused no.2 therein. Accused no.2 Amitkumar Jitendra Singh is husband of the original complainant i.e. the petitioner herein. She lodged the complaint

before the Metropolitan Magistrate alleging that she is in the employment of the school run by Municipal Corporation, Mumbai. She further averred that accused no.1 Asha Kamal Yadav met the Principal of her school and disclosed to the Principal that Kamal Kishor Yadav is having extra marital relation with the complainant. This allegation in the complaint makes it clear that accused no.1 Asha Yadav had informed to the Principal of the school where the complainant is doing work as teacher, that accused no.1 Asha Yadav complained about illicit relations of the complainant with her husband.

5 So far as the respondent no.1 herein/original accused no.4 is concerned, averments in the complaint are to the effect that colleague of the complainant namely Ms.Malati Sharma had disclosed to her that during the course of telephonic talks, respondent no.1 herein/original accused no.4 made dirty remarks against the complainant with an intention to malign her image and uttered that the complainant is having with colleague named Kamal Yadav.

6 On the basis of this material, the learned revisional court in paragraph 9 has observed that averments against the respondent no.1/original accused no.4 are vague. Malati Sharma who had allegedly disclosed about such averments to the complainant/petitioner herein was never examined as a witness. It is further held by the learned revisional court that on the basis of hearsay statement in the complaint, order of issuance of process cannot be passed.

7 Revisional jurisdiction is to be exercised when there is glaring defect of procedure or manifest error on the point of law resulting in miscarriage of justice. Perusal of the complaint shows that there is no iota of legally admissible evidence against the respondent no.1 herein/original accused no.4 and therefore, the learned revisional court has rightly quashed the order directing issuance of process against the respondent no.1 herein/ original accused no.4.

8 No infirmity can be found in the said order. Averments made in the complaint taken as it is, do not provide any grounds

for proceeding against the respondent no.1 herein/original
accused no.4.

9 The petition, as such, is devoid of merits and the same
is dismissed.

(A. M. BADAR, J.)

Arti V.
Khatate

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