

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

930 CRIMINAL WRIT PETITION NO.857 OF 2022

**RAJU PUNDLIK DESHPANDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.Amber Barlota and Mr.Pranil Sonawane i/b. KLS Legal for the petitioner.
Mr.Y.G.Gujarati,APP for the respondent/State.
Mr.B.B. Shinde, Advocate for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 02.02.2023**

PC :-

01. Heard learned Advocates for the parties. This petition is taken up for final hearing by the consent of the parties.

02. The petitioner had challenged the order passed by the learned Additional Sessions Judge, Ambajogai dated 19.06.2017 in Criminal Revision Application No.27 of 2017 by which the revision application came to be dismissed with costs. The petitioner had challenged the order passed by the learned JMFC, Parli Vaijinath in SCC No.887 of 2015, issuing process against him for the offence punishable under section 500 of the IPC.

03. The facts of the case, as alleged in the complaint lodged by respondent No.2, are that this petitioner had sent copies of letter-statement given in Khandeshwar Police Station, where he had given statement against one Ankush Shinde and his wife in respect of certain transactions. Respondent No.2, therefore, filed complaint saying that because of the statements the petitioner has caused defamation and therefore offence is made out. It is further stated in the complaint that this communication he has shown to his witnesses and some other persons and those persons also found that Ankush is defamed in the society. Since it was defamation of brother of respondent No.2, those persons even started looking at respondent No.2 with suspicion. It is reported that thereby he is also defamed. He lodged complaint in the Court of JMFC, Parli Vaijinath. The learned JMFC after recording verification and going through documents formed opinion that offence under sections 499 and 500 of the IPC is made out and therefore issued process for offence punishable under section 500 of the IPC. It is this order which is challenged in the revision.

04. The Revisional Court by considering judgment in the case of Pravin Deshmukh Vs. Manoj Jain in Criminal Appeal No. 1451 of 2007

decided by this Court also formed opinion that offence of defamation is made out by observing that essential facts required to be reflected from allegations are imputation causing harm to reputation or status of person and the imputation shall be conveyed to third person. He further observed that both the ingredients are satisfied and dismissed the revision.

05. The learned Advocate for the petitioner strenuously argued the matter and submits that in no case respondent No.2 can be said to be a person aggrieved and thus he does not have *locus standi* to file the complaint. He submits that the enquiry as contemplated under section 202 of the Cr.PC. was conducted by the police. This Court is only considering that whether respondent No.2 has *locus standi* and whether he can be said to be a person aggrieved.

06. While considering this, it is clear that by virtue of section 199 of the IPC, it is only a person who is aggrieved can file complaint for the offence under Chapter XXI of the IPC. Looking at the contents of the complaint, it is clear that the alleged letters-reports in the complaint shown that those were copies of statements made before police in respect of one Ankush Shinde and

his wife, there is no reference to respondent No.2. Even it is seen that as per allegations, copies of the statements were sent in envelope addressed to respondent No.2, that hardly can be said to be publication or making defamation before some other person. On the contrary, it is respondent No.2 who shown contents of the so called statements to some other persons. Thus, this Court finds that at the first place these were statements made before police authority and copies were sent to respondent No.2 in envelope. It cannot be said to be communication to any other person. Secondly, taking statement as it is, there is no reference of respondent no.2. So, on this count of *locus standi*, this Court holds that the petitioner has made out a case calling for interference at the hands of this Court. The learned Sessions Judge has failed to consider the aspect of *locus standi* to respondent No.2 and has committed illegality while dismissing the revision. Hence, following order.

ORDER

- (i) The writ petition is allowed in terms of prayer clause (C).

[KISHORE C. SANT, J.]