



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

CRIMINAL APPLICATION NO. 1484 OF 2009

Sow. Chandrajyoti Arun Muley And Others .. Applicants

Versus

Parshuram Kondiba Kamble and another .. Respondents

Mr. C. V. Dharurkar, Advocate for the Applicants.

Mr. H. B. Nandagavale, Advocate h/f Mr. V. D. Sakolkar, Advocate
for Respondent No. 1.

Smt. Chaitali Chaudhari-Kutti, APP for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATE : 19th AUGUST, 2025.

PER COURT :-

. Heard the parties.

2. This application is filed seeking quashment of the proceeding filed by respondent No. 1 in S.C.C. No. 1381/2009 pending in the Court of learned J.M.F.C., Aurangabad. The facts in short are as below :

3. Respondent No. 1 was working as head of the Music Department in the Government College, Aurangabad. One Dr. Deshmukh, a professor in the said department, made a complaint

on 01.09.2008 to the Principal stating that the informant is mentally harassing her. He asks her to come to his bungalow for music classes. She refused to go to his bungalow as he resides alone. Thereafter, he expressed feelings towards her. On that she politely gave him understanding that he is head of the department. Thereafter, he started making various complaints against her and also started loose talking about her with the students. He abuses in the office etc. She also quoted some other incidences. The respondent No. 1 threatened her of filing complaint under the Atrocities Act. It is stated that, the informant threatened that unless she comes to his bungalow, he would not end her probation. It is stated that, she is the only lady professor in the department and therefore, she is not comfortable while working. Along with her complaint, the present applicants also gave representation to the Principal of Government College, Aurangabad on the same date condemning the act of the respondent No. 1. On this, the respondent No. 1 sent legal notice to the applicants stating that they have committed an act of defamation and he would proceed against them by filing a complaint for the offences under Sections 109, 120-B, 500, 506

r/w Section 34 of the Indian Penal Code (for short "I.P.C."). Thereafter, he filed a complaint in the Court of learned J.M.F.C., Aurangabad. The process is also issued. The applicants, therefore, approached this Court for quashing of the proceedings.

4. The learned advocate Mr. Dharurkar for the applicants vehemently argued that, the only allegation against the present applicants is that they have written communication/representation to the Principal in support of their lady colleague. The nature of the letter is only to support their colleague. There is nothing defamatory against the complainant. There is no publication of the said representation. Making representation to the proper authority or the higher authority can never be said to be an act of defamation. He submits that, the case is clearly covered by exception 8 of Section 499 of the I.P.C. The proceeding of the complaint, therefore, is clearly an abuse of process of law. He further submits that, the employee in whose support the letter was written has faced a trial against her by the complainant. She is now cleanly acquitted by judgment dated 16.12.2019 by the learned J.M.F.C. in S.C.C. No. 1437/2009. The Court has clearly held on merits in favour of the accused in that

case. It is clearly held that, the case is covered by exception 8 of Section 499 of the I.P.C. The said judgment is not challenged by the complainant. The learned advocate relies upon the following judgments :

- (i) Rajendra Kumar Sitaram Pande and others Vs. Uttam and another reported in AIR 1999 SC 1028.
- (ii) Brahma Chellaney Vs. Marpol Private Limited & Anr. reported in 2005 (2) Bom.C.R. (Cri.) 269.
- (iii) Sopan Vithal Shinde Vs. State of Maharashtra reported in 2008 (4) AIR Bom R 350.
- (iv) Kishore Balkrishna Nand Vs. State of Maharashtra and Anr., in Criminal Appeal No. 2291/2011.
- (v) Iveco Magirus Brandschutztechnik GMBH Vs. Nirmal Kishore Bhartiya and Anr. reported in (2024) 2 SCC 86.

5. The learned advocate for the applicants thus submits that, clearly a case is made out to quash the proceedings.

6. The learned A.P.P. prays for passing appropriate order.

7. The learned advocate Mr. Nandagavale holding for learned advocate Mr. Sakolkar for respondent No. 1 vehemently opposes

the application. He argued that, even making complaint to the superiors without verifying the facts also amounts to defamation. In the present case, alleged victim has already filed a complaint. There was no reason for these applicants to make any representation to the Principal. Even filing of such representation without verifying the facts certainly amounts to defamation. In the complaint there are averments that the complaint of alleged victim was made public. The copy of complaint was circulated amongst the students and other staff members. He thus prays for rejection of the application.

8. In the case of **Rajendra Kumar Sitaram Pande** (*supra*), the Hon'ble Apex Court has laid down guidelines for issuance of process and maintainability of revision against the order of issuance of process. It was a case arising out of the offence punishable under Section 499 of the I.P.C. The allegations against the accused were that he had made a complaint to the superiors about the complainant who was found in a drunken state during the course of duty. The complainant, therefore, filed a complaint under Section 499 of the I.P.C. The Hon'ble Apex Court held that, making a complaint against a person in the office would not

amount to defamation and held that, the case is covered under exception 8 of Section 499 of the I.P.C. The Hon'ble Apex Court in view of the said was pleased to quash the order of issuance of process.

9. In the case of **Brahma Chellaney** (*supra*), this Court quashed the order of issuance of process. It was a case that the accused was working as professor. He had written a letter to the Chairman of Governing Board of the institution making allegations against the complainant. The complainant filed a case under defamation. This Court held that, no case of defamation was made out and it was covered by illustration. In the case of State of **Haryana Vs. Bajan Lal**, reported in **AIR 1982 SCC 604**, it was held that filing of case of defamation was an abuse of process of law.

10. In the case of **Sopan Vithal Shinde** (*supra*), this Court quashed the complaint filed by the wife. In that case, the wife was working as a staff nurse. The husband wrote vulgar letters to Chief Matron of hospital making allegations of extra marital relations of his wife with others. It was held that, in such circumstances the husband is not liable to be convicted under

Section 292. It was held that, there must be publication of false imputation. Writing letter to the superior of the person which is neither published nor circulated to others by the husband would not amount to defamation.

11. In the case of Kishore Balkrishna Nand (*supra*), the Hon'ble Apex Court considered that the case therein fallen under exception 8 and 9 of Section 499 of the I.P.C. It was found that the communication made in good faith would not amount to defamation.

12. The case of Eveco Magirus (*supra*), was also a case of defamation. In the said case also the Hon'ble Apex Court found that, no case of defamation was made out.

13. In the present case, this Court finds that, taking the letter/representation as it is, it only shows that it was a communication by all the colleagues of the alleged victim to the superior authority. Sending such representation can in no way be said to be defamatory. There is nothing on record to show that this representation was made public by any of the applicants.

Looking at the complaint, the main allegation is that the colleague who was allegedly victimised has circulated her letter amongst the students and thereby defamation is caused. It created suspicion in the minds of the people about the character of the complainant. Further allegation in the complaint shows that the alleged victim lodged a complaint with the Principal of the College and to Vishakha committee. The said complaint was dismissed holding that there was no sexual harassment. There are no allegations showing that it is these applicants who have circulated the representation or they have spoken about the said to any of the persons unconnected with the college.

14. Looking to Section 499 of the I.P.C., relevant portion of Section 499 reads as below :

“499. Defamation. — Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes 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, is said, except in the cases hereinafter excepted, to defame that person.

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Eighth Exception.—**Accusation preferred in good faith to authorised person.**—It is not defamation to prefer in

good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception.—Imputation made in good faith by person for protection of his or other's interests.—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.”

15. Exception 8 provides that, representation in good faith to authorized person does not come under the definition of defamation. Thus, considering the section it is clear that, making any representation in good faith for protection of his or others interest cannot be said to be a defamation. In the present case, it is the representation made to the Principal i.e. a person authorized to receive complaints. There is no intention seen on the part of any of the applicants to defame the respondent No. 1. What is stated is only that proper action be taken against the complainant. The representation is more in the nature of giving support to alleged victim lady. It is only a protest letter. The proposed letter is worded very mildly and is properly worded. Nothing can be said to be amounting to defamation.

16. This Court further finds substance in the argument of learned advocate for the applicants that on the very same set of facts the respondent No. 1 had filed one more complaint only against alleged victim wherein she is cleanly acquitted holding that the case falls under exception 8 of Section 499 of the I.P.C. The said judgment attained finality. There is no submission that the said order is subjected to appeal when in trial Court has come to conclusion that the case is covered under exception 8. This Court does not find any difficulty in accepting the said conclusion.

17. This Court is thus convinced that, the proceeding of the complaint would certainly be an abuse of process of law. The application is, therefore, allowed in terms of prayer clause (B). The proceeding in S.C.C. No. 1381/2009 pending in the Court of learned J.M.F.C. is hereby quashed and set aside.

18. With this, criminal application stands disposed of.

(KISHORE C. SANT, J.)

PS.B.