



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

CRIMINAL WRIT PETITION NO. 522 OF 2009

1. Dr. Smt. Mrudula A. Phadke,
Age 64 years, Occu: Service as
Vice Chancellor
C/o Maharashtra University of Health Sciences,
Vani Road, Mhasrul, Nashik 422 004
 2. Dr. Shri Shashank D. Dalvi,
Age 53 years, Occu: Service
C/o Government Medical College, Nanded
 3. Dr. Shri J. J. Pawar,
Age 48 years, Occu: Service
R/o B-18, Rohini Building,
Snehnagar, Nanded
 4. Dr. Shri Ranjitsingh R. Sulhyan
Age 55 years, Occu: Service
R/o Government Medical College,
Miraj, District Sangli
- .. Petitioners**

VERSUS

1. Vaidya Prabhakar Shivram Pawar,
Age 56 years, Occu: Professor
R/o Pushkaraj, Balikashram Road,
Ahmednagar
2. The State of Maharashtra

Mr. Mukul S. Kulkarni, Advocate for the Petitioners,
Mr. Yuvraj S. Chaudhari, Advocate for Respondent No.1
Mrs. Chaitali Chaudhari Kutti, APP for Respondent No.2

CORAM : Y. G. KHOBRADE, J.

RESERVED ON: 09.01.2025

PRONOUNCED ON: 22.01.2025

JUDGMENT:

1. By the present Petition, the Petitioners have invoked jurisdiction of this Court under Articles 226 and 227 of the Constitution of India read with Section 482 of the Criminal Procedure Code, 1973 (for brevity to be referred as “Cr.P.C.”) and thereby prayed to quash and set aside criminal proceedings bearing STC No. 170 of 2006 instituted by present Respondent No. 1 for the offence punishable under Section 500 and 501 read with section 34 of the Indian Penal Code, 1860 (for brevity to be referred as “IPC”). Consequently prayed to quash and set aside order of issuance of process passed by the learned Judicial Magistrate First Class, Court No.4, Ahmednagar, on 14.05.2009.

2. Present Petitioners are the original accused Nos. 1 to 4 and present Respondent No.1 is the original complainant in STC No. 170 of 2006. (For the sake of brevity, hereinafter, parties to the present petition would be referred in their original capacity as “complainant” and “accused”). On 24.06.2009, this Court issued Rule. Today, the matter is heard finally.

3. The complainant instituted a criminal complaint bearing STC No. 170 of 2006 alleging that, he is working as a Lecturer. He was Head of the Department at Gangadhar Shastri Gune Ayurved Mahavidyala, Ahmednagar. Being head of the department, he was elected as a Member

of Board of Studies. He was also elected as a Member of Faculty. Subsequently, he was elected as Dean of Faculty of Ayurved. Being Dean of Ayurved Faculty, he was also the Senate Member of Maharashtra University of Health Sciences (MUHS). The Accused No.1 is the Vice Chancellor of MUHS. The Accused No.2 is the Registrar of MUHS. Accused No. 3 was a Senate Member at the time of commission of offence. Previously, the Accused No.4 was a Senate Member.

4. The complainant alleged that, on 14.06.2006, Senate Meeting was held and Accused No.1, presided the said meeting being a Vice Chancellor of the University, Accused No.2 acted as a Secretary, Accused No. 3, being Senate Member participated in said meeting. During course of meeting, the complainant raised the question that, "Whether the "Ambar Lamp can be put on the Car of the Vice Chancellor? and Whether the words "Government of Maharashtra can be written on the Car of the Vice Chancellor as well as on other vehicles of the University?". The Senate Member replied to the said questions to the complainant, however, during said meeting, the Accused No. 3 has made a proposal/objection that, the question raised by the complainant should be not be put up for discussion and the complainant be condemned for raising such questions. The accused No. 4, being Senate Member seconded said proposal and Resolution No. 2/2006 was came to be passed. Since the minutes of said

meeting/debates on Resolution No. 2/2006 was published in Booklet and circulated in the entire State of Maharashtra as well as affixed on conspicuous place of the University, therefore, his reputation is maligned and he is defamed in the MUHS as well as in the entire State. Therefore, the petitioners/accused have committed an offence punishable under sections 500 and 501 read with Section 34 of IPC.

5. After recording the Verification on 14.05.2009, the learned Judicial Magistrate First Class passed an order and issued the process against the Petitioners/accused Nos. 1 to 4 for the offence punishable under sections 500 and 501 read with Section 34 of IPC.

6. Being aggrieved by the order of issuance of process, the Petitioners have filed present petition and prayed to quash and set aside criminal proceedings resultantly prayed to quash and set aside the order of issuance of process passed by the learned JMFC on 14.05.2009.

7. The learned counsel appearing for the petitioners/accused canvassed that, on 14.02.2006, Resolution was passed in the meeting of Senate Members after the discussion and debate on the Agenda/proposal submitted by the Accused No. 3. Therefore, publication of minutes of Senate Meeting in form of Booklet and its circulation does not constitute an offence under Sections 500 and 501 of IPC. However, the learned

JMFC, passed the impugned order on 14.05.2009 and issued process against the Accused persons without considering the scope of section 499 of IPC. Therefore, prayed for quashing and setting aside of criminal complaint as well as the order of issuance of process.

8. It is further canvassed that, the complainant raised a question about installation of Ambar Lamp on the Vehicle of the Vice Chancellor (V.C.) and writing of words "Government of Maharashtra" on vehicle of V.C. as well on vehicles of the University in the Senate Meeting. The questions were replied by the Senate. Thereafter, the Respondent No. 3 brought a proposal for passing of Resolution No. 2/2006, which was seconded by the Respondent No. 4. Thereafter, said Resolution was discussed by all the Senate members and the Resolution No. 2/2006 came to be passed in a democratic manner. Therefore, passing of Resolution in the MUHS Senate meeting and publication of debates/minutes of meeting do not constitute defamation as contemplated under Section 499 IPC. Therefore, continuance of criminal proceeding bearing STC No. 170 of 2006 amounts to an abuse of process of law.

9. It is further canvassed that, merely the Accused No. 3 proposed the daft resolution and the Accused No. 4 seconded the same, it cannot be said that the reputation of the complainant was at stake. Therefore, the complainant failed to bring substantial material on record

to fulfill the necessary ingredients of Section 499 IPC to constitute an offence punishable under section 500, 501 read with section 34 of IPC. Therefore, prayed to quash and set aside the criminal complaint as well as the order of issuance of process.

10. Per contra, the learned counsel appearing for the complainant /respondent No.1 canvassed in vehemence that, on 14.02.2006, Senate Meeting was conducted and in said meeting, the complainant raised questions about installation of Red/Ambar Lamp on Car of the Vice Chancellor and writing of words "Government of Maharashtra" on the vehicle of Vice-Chancellor & other vehicles of the University. The said questions were replied with explanation that, as per Notification dated 11.02.2002, issued by the Government of India in Government Gazette, permission was granted for installation of Ambar Lamp on the Vice Chancellor's Vehicle and words "Government of Maharashtra" can be written on the vehicle of Vice Chancellor and other vehicles of University. Therefore, there was no occasion to bring proposal/draft Resolution No. 2/2006. So also, there was no necessity to discuss on said agenda/proposal, however, the Accused No. 3 placed the Agenda/proposal which was seconded by the Respondent No. 4. Thereafter Resolution No. 2/2006 came to be passed. Further, the minutes of Senate Meeting was published in form of Booklet and it was circulated in the

State and also affixed at conspicuous place of the University. Therefore, his reputation and image so also image of University is maligned. Therefore, action on part of the all Accused constitutes the offences under Sections 500 and 501 read with Section 34 of IPC.

11. The learned counsel for the Complainant further canvassed that, being a Senate Member of MUHS, the complainant has every right to raise questions in the meeting, however, publication of minutes of meeting on any proposed subject/question raised by the Senate Member and disclosing the minutes of meeting at conspicuous place and its publication in the booklet amounts to causing damage to the reputation and character of the complainant as well as it lowers his image in the eyes of his friends and society. Therefore, the learned trial court has rightly considered the material available on record and issued the process against the accused/petitioners, which is just and proper. Therefore, prayed for dismissal of the petition.

12. The complainant claimed that, due to publication of minutes of Senate Meeting in Booklet and circulation of the same in the entire State, so also, by affixing minutes of meeting at conspicuous place, his reputation is at stake and therefore, the accused have committed an offence u/s 499 punishable u/s 500,501, r/w Sec. 34 of IPC.

13. Section 499 of of IPC provides definition of defamation, which reads as under:

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 expected, to defame that person.”

Section 500 of IPC Provides as under:

“Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both”.

Section 501 of IPC Provides as under:

“501. Printing or engraving matter known to be defamatory.— Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”

14. On plain reading of section 499 of IPC, it is clear that words either spoken or intended to be read, or by signs or by visible representations or publication of any imputation concerning any person intending to harm such person or such publication stake character of the person. However, in the case in hand, it is not the case of the complainant that the meeting was conducted just to lower down his image or character/reputation.

15. The grievance of the complainant is that, the Accused have published minutes of meeting in Booklet in entire State and published said minutes of meeting at the conspicuous place of the University, therefore, his reputation and image and image of University is maligned, so also, he has been defamed in the MUHS and entire State. Therefore, the accused have committed an offence punishable u/s 500, 501 r/w Sec. 34 of IPC. Under these circumstances a crucial question arises that, whether publication of minutes of meeting/debates of the Senate Members constitutes an offence as contemplated u/s 499 of IPC punishable u/s 500 and 501 IPC?

16. In the case in hand, it is not in dispute that, on 14.06.2006, the Senate Meeting was convened. The Accused No.1 presided over said meeting being a Vice Chancellor of the University. The Accused No.2 participated in said meeting being a Secretary and Accused Nos. 3 & 4 participated being Senate Members. It is also not in dispute that, while the meeting was going on, the complainant raised questions viz., “(i) Whether the “Ambar Lamp” can be fixed on Car of the Vice Chancellor? and (ii) Whether the words “Government of Maharashtra” can be written on the Car of the Vice Chancellor as well as on other vehicles of the University?”.

17. On the face of record it appears that, the Senate Members replied said questions to the complainant, but during the course of

meeting, the Accused No. 3 brought a proposal that, the questions raised by the complainant should not be put up for discussion and the complainant should be condemned for raising such question. No doubt, the accused No. 4, being Senate Member seconded said proposal. Thereafter, debate/discussion took place amongst the members on said proposal and then the Resolution No. 2/2006 came to be passed. However, said resolution does not suggest that, the Accused have made defamatory statement against the Complainant. It is also not the case of the complainant that, the accused have published incorrect minutes of meeting or incorrect Resolution.

18. Therefore, publication of copy of Resolution No. 2/2006 passed in the meeting of the Senate in public and at conspicuous place of the University does not suggest that dignity or reputation of the complainant/ respondent No.1 or his characters is maligned or is at stake.

19. Needless to mention here that publication of proceeding of the senate meeting in the newspaper does not fall within the ambit of Section 499 IPC. So also, publication of true fact also does not fall within the ambit of Section 499 IPC. In order to constitute the offence under section 499 IPC, it is necessary that there must be a imputation of character and it must be made with an intention of causing harm or

lowering down the reputation of the person about whom it is made. Therefore, it is necessary on the part of the complainant to show that the accused have intended to cause harm or having reason to believe that the imputation made by them would harm to his reputation, but such averments is not there in the complaint and merely bringing resolution in the Senate meeting and discussion on said resolution do not constitute the essential ingredients of section 499 IPC. However, the learned Judicial Magistrate passed the impugned order without considering the essential ingredients of Section 499 IPC and issued process against the accused, which is not sustainable in eyes of law.

20. In view of the above discussion, I am of the view that, continuation of criminal proceedings as against the present petitioners/Accused would certainly amounts to abuse of process of law and it is found to be groundless. Therefore, the complaint bearing STC No. 170 of 2006, instituted by Respondent No.1/complainant as well as order of issuance process passed by the learned Judicial Magistrate First Class, Court No. 4, Ahmednagar, on 14.05.2009 needs to be quashed and set aside. Accordingly, I proceed to pass the following order:

O R D E R

(I) Criminal Writ Petition is allowed.

(ii) Complaint bearing STC No. 170 of 2006 pending on the file of learned Judicial Magistrate First Class, Court No. 4, Ahmednagar is hereby quashed and set aside. Resultantly, order dated 14.05.2009 passed by the learned Judicial Magistrate First Class, Court No.4, Ahmednagar whereby process has been issued against the Petitioners is also quashed and set aside.

(ii) Rule is made absolute accordingly.

(Y. G. KHOBRAGADE, J.)

JPChavan