



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.118 OF 2023

Dr. Shri Vipul Jayantilal Bafna,
Age : 49 years, Occu. : Medical Practitioner,
R/o. C/o. Niramay Hospital,
80 Feet Road, Dhule, Dist. Dhule.

... Applicant
(Orig. Complainant)

Versus

1. Shri Ajay @ Vijay Mohan Polade,
Age : 40 years, Occu. : Business,

2. Shri Prakash Mohan Polade,
Age : 42 years, Occu. : Business,

Both R/o. Lane No. 7,
Behind Subhash Bose Statute,
Near Mari Mata Mandir, Dhule.

3. Shri Shailendra Bhaurao Sale,
Age : 45 years, Occu. : Editor,

4. Shri Yuvraj Deore,
Age : 46 years, Occu. : Executive Editor,

5. Shri Narendra Ramnath Jamadar,
Age : 46 years, Occu. : Printer,

6. Shri Sunil Ramnath Jamadar,
Age : 48 years, Occu. : Resident Editor,

All R/o Media Tower No. 18, Shriram Colony,
Wadibhokar Road, Deopure, Dhule.

... Respondents
(Orig. Accused)

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Mr. Mukul S. Kulkarni, Advocate for Applicant/Appellant.
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 09 JULY 2025

PRONOUNCED ON : 14 JULY 2025

PER COURT :

. Present application is for leave to file appeal against order passed by learned Judicial Magistrate First Class (Court No.5), Dhule dated 12.07.2023 dismissing the complaint for want of prosecution by invoking section 256 of the Code of Criminal Procedure.

2. Learned counsel for applicant submitted that, applicant is well known medical practitioner. That, mother of respondent nos.1 and 2 was taking treatment with the applicant, however, the said respondents published series of false, concocted and defamatory news articles against the applicant and his wife in newspaper "Dainik Police Shodh" which has greater circulation. That, applicant feeling defamed, he issued legal notice through Advocate calling upon respondents to tender public apology and to pay compensation. In that direction applicant also filed complaint bearing S.T.C.C. No 2770 of 2017. That, after verification, learned Magistrate was also pleased to issue process. However, complaint came to be dismissed on 12.07.2023 by invoking section 256 of Cr.P.C. because complainant had remained absent. Therefore, he seeks fair opportunity to proceed for defamation against respondents.

3. It appears that, respondent nos.1 and 2 have refused to accept the notice. Therefore, in view of a valid service of summons/notice and then the respondent Nos.1 and 2 refusing to accept the same it will have to be taken as a good service. As regards to respondent Nos. 3 to 6 are concerned, they were not found on given address and therefore, on request, paper publication was allowed. Copies of the news papers are placed on record.

In spite of service, respondents have not bothered to answer the leave application and therefore, this court is constrained to proceed ex-parte against all respondents.

4. After hearing the submissions so advanced and after going through the news paper articles, which are taken exception to for advancing the ground of defamation, leave as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

- (i) Application stands allowed.
- (ii) Leave is granted to file Appeal.
- (iii) Registry to register the Appeal.
- (iv) List the appeal for further consideration on 15.07.2025.

(ABHAY S. WAGHWASE, J.)