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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1492 OF 2019**

Vishal Ashwin Patel ...Petitioner

Versus

The State Of Maharashtra And Anr. ...Respondents

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Mr. Girish Kulkarni a/w Sachin Agawane Advocate for the Petitioner.
Mr. Shyam Dewani a/w Hrishikesh S. Shinde Advocate for
Respondent No. 2.
Mr. P. P. Deokar, APP for the Respondent-State.

**CORAM : SHIVKUMAR DIGE, J.
DATE : 15th DECEMBER, 2025**

P.C.

1. The challenge in this petition is order dated 6th December, 2018 passed by the learned Sessions Judge at Ratnagiri. The learned Sessions Judge has confirmed the issue process order passed by the learned Judicial Magistrate First Class at Ratnagiri (for short "JMFC") in Criminal Complaint No. 67 of 2017 filed under Section 499 and 500 of the Indian Penal Code, 1860 (for short, IPC).

2. It is contention of learned senior counsel for the petitioner that the petitioner is the minority shareholder of the respondent no.2-company. The petitioner and his family members have substantial investments in the respondent no. 2-company. He further submitted that in March, 2017 the petitioner had published an open letter in the

newspaper. It is alleged that it caused defamation of the respondent no.2-company, its managing directors, chairman, emeritus, whole time directors, independent directors, and statutory auditors. The statements made in the said open letter were considered offensive and a complaint was filed against the petitioner before the learned JMFC.

3. The learned counsel further submits that the learned JMFC passed an issue process order against the petitioner without making proper inquiry u/s 202 of Criminal Procedure Code (for short, CrPC) and without considering the fact that the petitioner is the minority shareholder of respondent no. 2-company and he had merely expressed his grievances about the company. The learned counsel further submits that the petitioner had received audit report and audited financials of the respondent no. 2-company for the financial year 2014-15. After carefully studying the said audit report, it came to the attention of the petitioner that there were certain expenses incurred by the respondent no. 2-company which were not in conformity with the nature of the business carried on by the respondent no. 2-company. In addition to the above, certain other expenses were also noticed which did not appear commensurate with the size of the respondent no. 2-company and its operation. Hence, to

ascertain whether the shareholders' funds (including the funds of minority shareholders such as the petitioner) were being put to proper commercial and business use by the respondent no. 2-company, the petitioner addressed a letter dated 1st December, 2015 to the respondent no. 2-company requesting for point-wise detailed information/clarification. However, the petitioner did not receive any response from respondent no.2's management regarding the inquiries made in the aforesaid letter and subsequent letters.

4. As the respondent no. 2's management neglected and refused to give proper reply to bonafide inquiries raised by the JHP securities regarding use of the respondent No.2's funds, an open letter was addressed to the respondent no.2-company and its officials by the petitioners in March 2017 with an intention to get clear answers from the company. However, instead of responding to the legitimate queries raised by its shareholders, the respondent no. 2 company filed a complaint before the learned JMFC against the petitioner alleging defamation. The learned counsel further submits that the open letter by the shareholders addressing their grievances published in the newspaper cannot be considered as defamation. Hence, requested to allow the Petition. He relied on:

- ***Subramaniam Sethuraman vs. State of Maharashtra***

And Anr [(2004) 13SCC 324];

- *Rajathi Vs. C. Ganesan [(1999) 6 SCC 326];*
- *Kailash Verma vs. Punjab State Civil supplies corporation and Anr. [(2005) 2SCC 571];*
- *Vijay Dhanuka and Ors. vs. Najima Mamtaj and Ors. [(2014) 14 SCC 638];*
- *Pancham International Ltd and Ors. vs. Shevam and Ors. [2025 SCC Online Bom 2967].*

5. It is contention of learned counsel for the respondent no.2 that the reply to the letters of the petitioner were given by the respondent no.2 company and its authorities. Despite that, the petitioner published open letter in the newspaper defaming the respondent no. 2 company's office bearers and its authorities. The petitioner had intention to defame the respondent no.-2 company. The petitioner has referred the respondent no. 2 as a complete disaster. He had addressed the letter to various shareholders and directors of the company with an intention to defame the Respondent no.2-company. The orders passed by the Courts below are well reasoned, no interference is required in it and requested to dismiss the writ petition.

6. I have heard both the learned counsels, perused impugned order.

7. Admittedly, the open letter was published by the

Petitioner against the Respondent no.2 – Company and its authorities. As per the Respondent no.2 – Company, it was highly defamatory in nature and published with the intention to lower the reputation of Respondent no.2 – Company and its authorities. The said letter was published in “Business Standard” newspaper along with other print media and multiple websites and was read by various shareholders. After publication of said letter, the authorities of the respondent no.2 – Company received calls and messages from various people regarding the veracity of said notice and expressed concern. One Mr. Waman Purushottam Pethe, a shareholder of the Respondent no.2 – Company was shocked after reading the published letter and made a grievance to the respondent no.2 – Company vide letter dated 3rd March, 2017.

8. Before filing private complaint against the petitioner, a legal notice dated 6th March, 2017 was issued to him. After receiving the notice, the Petitioner did not reply to it. Thereafter, the complaint was filed before the learned JMFC. After filing the complaint, the learned JMFC made an inquiry u/s 202 of Cr.P.C., and passed issue process order. It is contention of ld. senior counsel for Petitioner that the issue process order was passed without making inquiry.

9. Section 202 of CrPC reads as -

“202. Postponement of issue of process.—

(1) Any Magistrate, on receipt of a complaint of an offence of

which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, 1 [and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,

—
(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.”

This section provides that after making inquiry by himself or by police officer or by suitable person, the court can pass issue process order.

10. Section 2(g) of CrPC defines “inquiry” as :-

2(g) “inquiry” means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court;

11. In present case, after examining the authorised representative of the respondent no.2-Company and witness Waman Purushottam Pethe, issue process order was passed by the learned JMFC. So, it cannot be said that it was passed without making any proper inquiry.

12. As per contention of learned counsel for respondent no. 2-Company that replies were given to the letters issued by the petitioner to the authorities of the respondent no.2-Company, but, there is no reference about it in open letter published by the petitioner in news paper.

13. It is contention of learned senior counsel for the petitioner that the letter was published to vent grievances of the petitioner, who is minority shareholder. In my view, publishing an open letter in the newspaper cannot be considered as a legal way to vent grievances. To prove that was it in good faith or not, trial is required. The petitioner should have replied to the legal notice issued by the respondent no.2 –Company after publishing the letter, but it was not done. The order passed by learned Sessions Judge is well reasoned. No interference is required it. I have gone through the case laws cited by the learned senior counsel for the petitioner. The facts of cited case and the present case are different, hence, not applicable. In view of above, I pass following order:-

ORDER

Writ Petition is dismissed.

(SHIVKUMAR DIGE, J.)