

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 6717 OF 2024

Ramesh S/o Ratanshi Vasani @ Thakkar ..Petitioner

Versus

The State of Maharashtra and Ors ...Respondents

Mr. A P Mundargi, Senior Advocate i/b Pravada Raut, for the
Petitioner.

Mr. Pradyumna D Sharma, a/w Randhirkumar N Mandal,
Mr. Vinod A Gupta, Ms. Nishi Jain, for Respondent Nos. 2 & 3.
Smt. R S Tendulkar, APP for the Respondent No. 1.

CORAM : N. J. JAMADAR, J.

DATE : 7th APRIL 2026

Oral Order:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 09th July, 2024 passed by the learned Magistrate, whereby an application preferred by the petitioner/complainant seeking a fresh explanation of the particulars of the offence to the respondents/accused and hold a *de novo* trial after so explaining the particulars of the offence, came to be rejected.
3. The petitioner/complainant has filed a complaint for an offence punishable under Section 500 of the Indian Penal Code,

1860. Initially, it appears, the plea of the accused was recorded by the learned Magistrate on 22nd August, 2006. Thereafter, the complaint was dismissed for want of prosecution. Upon restoration of the complaint, the learned Magistrate has again recorded the plea of the accused on 27th July, 2018.

4. The petitioner/complainant has a grievance that, the said plea has not been recorded in the manner so as to give a clear indication of the particulars of the offences allegedly committed by the accused and, eventually, the petitioner/complainant is apprehensive that, the accused may claim prejudice on the said ground. Thus, the petitioner filed an application to explain the particulars of the offence afresh as per the draft of the particulars of the offence (Annexure-A) appended to the application and to hold a *de novo* trial.

5. By the impugned order, the learned Magistrate has rejected the said application.

6. At the outset, it is necessary to note that, once the particulars of the offence were explained to the accused on 22nd August, 2006, there was no necessity of again recording the plea of the accused after the complaint came to be restored to the file of learned Magistrate.

7. Mr. Sharma, the learned Counsel for the Respondent Nos. 2 and 3 - accused submitted that, the Respondent Nos. 2 and 3 will not raise an objection if the plea recorded on 22nd August, 2006 is considered to be the plea recorded for the purpose of trial in CC No. 102/SS/2004.

8. It is trite, a mere omission or error in framing of the charge, as such, does not vitiate the trial. In a case of the present nature where the respondents/accused are aware of the gravamen of the accusation i.e. the defamation of the complainant by addressing letters/communications, the question of prejudice may not arise. So far as the prayer for a *de novo* trial, since the evidence has been recorded in the form of narration and not in the form of memorandum of substance of evidence, the learned Magistrate was justified in rejecting the prayer for a *de novo* trial.

9. In these circumstances, since the complaint for an offence punishable under Section 500 of the Penal Code, has been filed in the year 2004, and the complainant and Respondent Nos. 2 and 3 are the senior citizens, it would be expedient that the complaint is decided as expeditiously as possible.

10. The Writ Petition thus stands disposed with a clarification that, the plea recorded on 22nd August, 2006 be considered to be the plea for the purpose of trial of Respondent Nos. 2 and 3 in CC No. 102/SS/2004. The learned Magistrate is requested to conclude the trial in CC No. 102/SS/2004, as expeditiously as possible and, preferably, within a period of 9 months from the date of communication of this order.

[N. J. JAMADAR, J.]