



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH AT NAGPUR**

CRIMINAL APPEAL NO. 619 OF 2024

Samsang S/o. Anthik Jyohn

Aged : 47 years, Occ. : Labour,
R/o. Motibag, Khalasi Line, P.S. Sadar,
Nagpur

... Appellant

.. Versus ..

State of Maharashtra,

Through Police Station Officer,
Police Station Sitabuldi,
Nagpur

...Respondents

Shri A.K.Dobade, Advocate for Appellant (appointed).
Shri B.M.Lonare, APP for Respondent/State.

CORAM : NEERAJ P. DHOTE, J.

DATE : 11/02/2026

ORAL JUDGMENT

This is an Appeal under Sections 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') against the Judgment and Order dated 28/06/2022 passed by the learned Assistant Sessions Judge, Nagpur in Sessions Trial No. 140/2021, convicting and sentencing the Appellant as follows:-

“1] Accused Samsang S/o. Anthik Jyohn, R/o. Motibag, Khalasi Line, Nagpur is hereby convicted of offence punishable under Sections 353, 506(B), 294 and 448 of Indian Penal Code vide Section 235(2) of the Code of Criminal procedure.

2] Accused - Samsang S/o. Anthik Jyohn is sentenced to suffer rigorous imprisonment of 5 years (i.e. 60 months) for offence punishable under Section 353 of Indian Penal Code and fine of Rs.5000/-, in default of fine to suffer rigorous imprisonment for three months.

3] Accused - Samsang S/o. Anthik Jyohn is sentenced to suffer rigorous imprisonment of 3 years (i.e. 36 months) for offence punishable under Section 506(B) of Indian Penal Code and fine of Rs.5000/-, in default of fine to suffer rigorous imprisonment for three months.

4] Accused - Samsang S/o. Anthik Jyohn is sentenced to suffer rigorous imprisonment of three months for offence punishable under Section 294 of Indian Penal Code and fine of Rs.1000/-, in default of fine to suffer rigorous imprisonment for 15 days.

5] Accused Samsang S/o. Anthik Jyohn is sentenced to suffer rigorous imprisonment of six months for offence punishable under Section 448 of Indian Penal Code and fine of Rs.1000/-, in default of fine to suffer rigorous imprisonment for 15 days.

6] All substantive sentences under Section 353, 506(B), 294 and 448 of Indian Penal Code, shall run concurrently.

7] Bail bonds of accused stands seized.

8] Accused is entitled for proper set off from the date of his arrest i.e. from 26.08.2014 till 30.09.2014, being was in jail, vide Section 428 of Code of Criminal Procedure, 1973.

9]

10] ”

2. The prosecution’s case as revealed from the police report is as under:-

3. On 20/08/2014, during the office working hours in the Office of Joint Charity Commissioner, Nagpur, the Appellant abused the Joint Charity Commissioner. The Appellant used filthy words towards the Joint Charity Commissioner. The Appellant also tried to go on the Dias. The Appellant was removed out of the said office. The name of the Appellant was revealed from one of the Advocates who present in the said office. The report was lodged with the Sitabuldi Police Station on 22/08/2014 about the said incident and the Crime bearing No. 321/2014 came to be registered for the offences punishable under Sections 353, 506(B), 294 and 448 of the Indian Penal Code, 1860 (for short, 'I.P.C.') against the Appellant. The spot panchanama was drawn. The Appellant came to be arrested from his house. The statements of the witnesses were recorded. On the completion of investigation, the charge-sheet came to be submitted against the Appellant.

4. The learned Trial Court framed the charge against the Appellant below Exh.2 for the offences punishable under Sections 353, 506(B), 294 and 448 of I.P.C., to which, the Appellant pleaded not guilty and claimed to be tried. To establish the charge, the prosecution examined in all six (6)

witnesses. After the prosecution closed its evidence, the statement of the Appellant came to be recorded under Section 313(1)(b) of the Cr.P.C. After hearing both the sides, the learned Trial Court passed the impugned judgment and order.

5. Heard the learned Advocate for the Appellant and the learned APP for the State. Scrutinized the evidence available on record.

6. The evidence of the witnesses examined by the prosecution shows that, the Appellant was not known to them. Though the prosecution's witnesses deposed that, the Appellant's name and address were taken from one Advocate Fransis, admittedly, the said Advocate Fransis is not examined by the prosecution. The evidence of P.W.-6 Investigating Officer shows that, he arrested the Appellant from his house. The Arrest Form below Exh. 15, which is brought on record in the evidence of the Investigating Officer shows that, the Appellant was arrested on 26/08/2014 i.e. four (4) days after the report was lodged. There is nothing to show that, during the course of investigation, the Test Identification Parade (T.I.P.) of the Appellant was conducted. It is a matter of record that, the witnesses were examined before the

learned Trial Court between the March, 2022 to June, 2022, wherein the witnesses identified the Appellant as the same person to commit the said offences. The identification of the Appellant by the witnesses after such a long period of more than seven (7) years, without prior corroboration in the form of identification in T.I.P. during the course of investigation, cannot form the basis to prove the identity of the Appellant as the same person who entered the office of Joint Charity Commissioner, Nagpur and created chaos and committed the crime. The FIR was lodged after a period of two (2) days and there is no explanation for the delay. In the backdrop of the above, the conviction and sentence is unsustainable and the Appeal succeeds. Hence, the following order:-

ORDER

- I) The Appeal is **allowed**.
- II) The impugned judgment and order dated 28/06/2022 passed by the learned Assistant Sessions Judge, Nagpur in Sessions Trial No. 140/2021, convicting and sentencing the Appellant for the offences punishable under Sections 353, 506(B), 294 and 448 of I.P.C., is quashed and set aside.

III) The Appellant is acquitted for the offences punishable under Sections 535, 506(B), 294 and 448 of the I.P.C.

IV) The Appellant is behind the bars, he be released forthwith, if not required in any other offence.

V) R & P be sent back to the learned Trial Court.

VI) The fees of the learned Advocate Shri A.K.Dobade, appointed for the Appellant, is quantified at Rs.15,000/- [Rupees Fifteen Thousand Only], which shall be paid by the High Court Legal Services Sub-Committee, Nagpur.

[NEERAJ P. DHOTE, J.]