

Jawaharlal Darda

Vs

Manoharrao Ganpatrao Kapsikar

(G. T. Nanavati, V. N. Khare JJ)

26.03.1998

JUDGMENT

NANAVATI J

1. Respondent No. 1 - Manoharrao Ganpatrao Kapsikar filed a complaint in the court of CJM, Nanded, alleging that by publishing a news item in its newspaper "Daily Lokmath", on 4.2.84, Mr. J.J. Darda, who was then the Chief Editor of that Daily, Mr. Rajinder Darda, who was the Editor of the Daily, Mr. Madhukar, who was the Executive Editor of the Daily, Mr. Deshmukh, who was connected with publication of the Daily and M/s. Darda Printo Crafts Pvt. Ltd., who were owners and proprietors of the Daily, have committed offences punishable under Section 499, 500, 501 and 502 read with Section 34 IPC. The complaint was filed on 2.2.87.

2. Learned CJM issued process against all the five accused. This order passed by the learned CJM was challenged by the five accused before the learned Additional Sessions Judge, Nanded. The learned Judge quashed that order as he was of the opinion that by publishing that news item, none of the accused had committed any offence. That order was challenged by the complainant by filing a petition in the High Court under Section 482 Cr.P.C. The High Court was of the opinion that the learned Additional Sessions Judge misinterpreted the publication. It was also of the view that when the learned CJM had found prima facie case against the accused and thought it fit to issue process, it was not proper for the learned Additional Sessions Judge, to set aside that order, by exercising the revisional power.

3. What is contended by the learned counsel for the appellants is that the High Court has taken a technical view of the matter as regards the power of the Sessions Court to exercise its revisional jurisdiction and has also committed an error in observing that the report published in the Daily was misinterpreted by it.

4. As we have stated earlier, the news item was published on 4.2.84. The complaint in that behalf was filed by the complainant on 2.2.87. The news item merely disclosed what happened during the debate which took place in the Assembly on 13.12.83. It stated that when a question regarding misappropriation of Government funds meant for Majalgaon and Jaikwadi was put to the Minister concerned, he had replied that a preliminary enquiry was made by the Government and it disclosed that some misappropriation had taken place. When questioned further about the names of persons involved, he had stated the names of five persons, including that of the complainant. The said proceedings came to be published by the accused in its Daily on 4.2.84. Because the name of the complainant was mentioned as one of the persons involved and likely to be suspended he filed a complaint before the learned CJM alleging that as a result of publication of the said report he had

been defamed.

5. It is quite apparent that what the accused had published in its newspaper was an accurate and true report of the proceedings of the Assembly. Involvement of the respondent was disclosed by the preliminary enquiry made by the Government. If the accused bona fide believing the version of the Minister to be true published the report in good faith it cannot be said that they intended to harm the reputation of the complainant. It was a report in respect of public conduct of public servants who were entrusted with public funds intended to be used for public good. Thus the facts and circumstances of the case disclose that the news items was published for public good. All these aspects have been overlooked by the High Court.

6. We, therefore, allow this appeal, set aside the order passed by the High Court and restore the order passed by the learned Additional Sessions Judge.