

**SUPREME COURT OF INDIA****Bench: Justices B.R. Gavai and Sandeep Mehta****Date of Decision: 29th January 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2024

(Arising out of SLP(Crl.) No(s). 3180 of 2020)

**SANJAY UPADHYA****....APPELLANT(S)****VERSUS****ANAND DUBEY****....RESPONDENT(S)****Legislation:**

Section 500 of the Indian Penal Code, 1860

Sections 200 and 202 of the Code of Criminal Procedure, 1973

Article 19(1)(a) of the Constitution of India

**Subject:** The appeal challenges the legality of the defamation proceedings against the appellant, the owner of 'Sunday Blast' newspaper, for publishing an allegedly defamatory article.

**Headnotes:**

Challenge Against Defamation Proceedings – Appeal filed against criminal defamation proceedings under Section 500 of IPC for an article in 'Sunday Blast' newspaper alleging false case registration by the complainant – Original complaint filed by respondent Anand Dubey alleging damage to reputation due to the article. [Paras 2-3]

Magistrate's Rejection of Complaint, Reversed by Sessions Court and High Court – Initial rejection of the complaint by the Judicial Magistrate First Class, Hoshangabad, was reversed by the Additional Sessions Judge and upheld by the Madhya Pradesh High Court, leading to the present appeal. [Paras 4-5]

Fundamental Right of Freedom of Speech and Expression – The Magistrate's order emphasized the appellant's exercise of the Freedom of Speech and Expression under Article 19(1)(a) of the Constitution – Held that the publication did not warrant prosecution under Section 500 of IPC. [Para 8]

Supreme Court Quashes High Court and Sessions Court Orders – The Supreme Court found the Magistrate's view justified, ruling that the article was published in good faith and under the Fundamental Right of Freedom of Speech and Expression – Orders of the Sessions Court and High Court quashed. [Paras 9-11]

Final Decision – All proceedings against the appellant under Section 500 of IPC quashed – Appeal allowed. [Para 11]

Referred Cases: None.

## **J U D G M E N T**

### **Mehta, J.**

1. Leave granted.
2. The instant appeal has been preferred by the accused appellant who is facing prosecution for the offence punishable under Section 500 of Indian Penal Code, 1860 in a complaint filed by the respondent-complainant Anand Dubey in the Court of Judicial Magistrate First Class, Hoshangabad. The complaint was founded on an allegation that the appellant who is the registered owner of a Daily newspaper named 'Sunday Blast' having its registered office at Malviya Hospital, Kothi Bazar, Hoshangabad Tehsil and District Hoshangabad, allowed a news article to be published in the edition dated 24<sup>th</sup> February, 2013 bearing a title "*Advocate ne pan masala vyavasayi par karaya jhuta mamla darj*".

3. The respondent-complainant filed the subject complaint in the Court of Judicial Magistrate First Class, Hoshangabad alleging that the appellant had allowed the said news article to be published in his newspaper without ascertaining the true facts and that such publication brought down the reputation of the respondent-complainant in the eyes of the public at large and thus, the accused appellant was liable to be prosecuted for criminal defamation punishable under Section 500 of the Indian Penal Code, 1860.
4. The learned Magistrate, after considering the averments made in the complaint and the statement of witnesses examined under Sections 200 and 202 of Code of Criminal Procedure, 1973(hereinafter being referred to as 'CrPC') rejected the same vide order dated 12<sup>th</sup> June, 2017.
5. The respondent-complainant preferred a revision against the order dated 12<sup>th</sup> June, 2017, which came to be allowed by the learned Additional Sessions Judge, Hoshangabad vide order dated 15<sup>th</sup> October, 2018 and the order passed by the learned Magistrate was reversed. The accused appellant herein challenged the said order by filing MCRC No. 44473 of 2018 before the High Court of Madhya Pradesh which dismissed the same vide order dated 29<sup>th</sup> January, 2020. The order dated 29<sup>th</sup> January, 2020 and all further proceedings of the complaint are assailed in the present appeal.
6. No one has appeared to contest the appeal on behalf of the respondent-complainant despite service.
7. We have considered the submissions advanced on behalf of the appellant and have gone through the material placed on record including the orders passed by the Courts below as well as the High Court.
8. Having considered the entirety of the material available on record, we find that the order dated 12<sup>th</sup> June, 2017 passed by the learned Magistrate First Class, Hoshangabad rejecting the complaint of the respondent-complainant is a well-reasoned order.

The learned Magistrate in its order referred to the Fundamental Right of Freedom of Speech and Expression enshrined under Article 19(1)(a) of the Constitution of India and held that the publication in question did not warrant prosecution of the accused appellant for the offence punishable under Section 500 of the Indian Penal Code, 1860. We are also of the view that the news article in question was published in good faith and in exercise of the Fundamental Right of Freedom of Speech and Expression enshrined under Article 19(1)(a) of the Constitution of India.

9. As an upshot of above discussion, we are of the opinion that the view taken by the learned Magistrate cannot be termed to be illegal or unjustified warranting interference by the High Court in exercise of the revisional jurisdiction.
10. Resultantly, the order dated 15<sup>th</sup> October, 2018 passed by the learned Additional Sessions Judge as well as the order dated 29<sup>th</sup> January, 2020 passed by the High Court are quashed and set aside.
11. As a consequence, all proceedings sought to be taken against the accused appellant in pursuance of the complaint filed by the respondent-complainant under Section 500 of the Indian Penal Code, 1860 are also quashed.
12. The appeal stands allowed accordingly.
  
13. Pending application(s), if any, shall stand disposed of.

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