



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

CRIMINAL REVISION NO. 189 OF 2017

Prashant s/o Ashok Satralkar
Aged about 55 years,
Occ. Ex-servicemen, R/o All Saints
House Compound, Opp VCA-Sadar,
Nagpur 440001

APPLICANT

// V E R S U S //

1. **The State of Maharashtra,**
Through PSO, Sadar
Police Station, Nagpur

NON-APPLICANT

None for the applicant.
Mr. A.M. Kadukar, APP for non-applicant /State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 05.02.2026

ORAL JUDGMENT :

1. By this revision the applicant challenges the judgment and order of conviction passed in Regular Criminal Case No.148/2010 by 2nd Additional Chief Judicial Magistrate, Nagpur dated 15.04.2015 by which the applicant is convicted of the offence punishable under Section 294 of the Indian Penal Code (for short, 'IPC') and sentenced to pay fine of Rs.10,000/- in default to suffer three months simple imprisonment. He is further

convicted of the offence punishable under Section 506-B of the IPC and sentenced to pay fine of Rs.10,000/- in default of payment of fine three months simple imprisonment and the modified sentence in Criminal Appeal No.145/2015 by Additional Sessions Judge, 7, Nagpur by which the sentence of fine is reduced to Rs.3,000/- of the offence punishable under Section 506 Part II of the IPC and Section 294 of the IPC and directed to pay the compensation of Rs.5,000/- to the informant.

2. Brief facts of the prosecution case are as under:-

The informant Paul s/o Prabhudas Dupare lodged the report on an allegation that on 07.11.2009 the notice was issued to the accused Prashant for vacating the house. On that count when he was proceeding in front of the house of the complainant abused him in filthy language. On the basis of the said report police have registered crime against present applicant. Learned Magistrate has framed the charge vide Exh.3. The accused pleaded not guilty and claimed to be tried. In support of the prosecution the prosecution has examined in all four witnesses. Paul Prabhudas Dupare PW-1 Informant vide Exh.15. PW-2 Velangini vide Exh.18, PW-3 Paresh Ramdas Wanjari vide Exh.19 and PW-4

Dinesh vide Exh.21 Investigating Officer. After appreciating the evidence the trial Court convicted the present applicant which is confirmed in the appeal.

3. Being aggrieved and dissatisfied with the same present criminal revision is preferred by the applicant on the ground that learned trial Court as well as Appellate Court has not considered that the ingredients of the offence itself is not established which are required to constitute the offence. Mere abuses are not sufficient to attract the offence punishable under Section 294 (b) of the IPC. The ground further raised in the revision application is that there is no whisper by any of the witnesses that due to the use of the words by the present applicant there was some annoyance either to the complainant or to the society members and therefore, the offence is not made out.

4. None present for the applicant.

5. Heard learned APP for the State. Perused the entire evidence on record.

6. Considering the scope of the revision it is to be seen whether the judgment and order of the conviction passed by the trial Court as well as the Appellate Court suffers from any illegality, impropriety and calls for any interference. On appreciation of the evidence it reveals that the prosecution mainly placed reliance on evidence of PW-1 Paul Prabhudas Dupare who reiterated in his evidence that alleged incident occurred on 07.11.2009 in the premises of church compound at about 5.30 p.m. The said incident occurred as the work of the accused was not satisfactory therefore, society dismissed his services. Notice was also issued to him to vacate the house which was allotted by the society. The accused threw the notice on his face and abused in the obscene words. The accused abused him by saying 'Madarchod', 'Bahind Chod'. 'Mar Dalunga', 'Kat Dalunga'. The accused assaulted the security guard Parvesh Wanjari. Therefore, he approached to the police and lodged report. His report at Exh.16 and FIR is at Exh.17. During his cross-examination it came on record that many cases are pending against the accused in Civil Court as well as in the Labour Court. It further came in the evidence that accused has not vacated the house. Except this cross-examination nothing is brought on record to incriminate the

evidence of PW-1. PW-2 Velangini is another witness who has not supported the prosecution case and left the loyalty towards the prosecution case.

7. PW-3 who is Paresh Wanjari has also not supported the prosecution case and left the loyalty of prosecution case. He even denied the fact that the incident occurred on 07.11.2009. PW-4 is the Investigating Officer who has narrated about the investigation carried out by him. As per his evidence report was taken by Kamlesh Dubey and as the offence under Sections 294 and 506 of the IPC was made out, he registered the FIR and carried out the investigation.

8. On the basis of the sole evidence of the complainant the accused came to be convicted by the 2nd Judicial Magistrate First Class, Nagpur in Regular Criminal Case No.148/2010 by observing that the sole evidence of the informant is sufficient to attract the offence. The same is confirmed by Additional Sessions Judge, Nagpur by modifying the sentence and fine amount was reduced from Rs.10,000/- to Rs.3,000/- of the offence punishable under Section 294 of the IPC and Rs.10,000/- to Rs.5,000/- for the offence punishable under Section 506 of the IPC.

9. Section 294 which deals with the obscene acts and songs. Relevant is the provision of section 294(b) which reads as under:- Whoever, to the annoyance of others sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

10. Thus, for attracting the offence punishable under Section 294 the words i.e. the obscene words should be to the extent that the person affected by the said words felt annoyed and there has to be some legal recognize to show that words uttered by accused annoyed others. This aspect is considered by the Hon'ble Apex Court in the case of **N.S. Madan Gopal and another vs. K. Lalita reported in (2022) 17 SCC 818** wherein it is laid down that the test of obscenity under Section 294 (b) of the IPC is "the test of obscenity is this "whether the tendency of the matter charge as obscenity is to deprave and corrupt those minds and open to such immoral influences." "This test has been uniformly followed in India. The Hon'ble Apex Court has accepted

the correctness of the test in *Ranjit D. Udeshi Vs. State of Maharashtra* reported in *Manu/SC 0080/1964* wherein the test of “obscenity” is ‘substantial tendency to corrupt by arousing lustful desires’. It impure thoughts, I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory to the complainant, but I do not think the words are “obscene” and the utterance would constitute an offence punishable under Section 294(b) of IPC.

11. This aspect is further considered by the Hon’ble Apex Court in the case of *Om Prakash Ambadkar Vs. The State of Maharashtra and Ors.*, reported in *Manu/SC/0134/2025* and observed that insofar as Section 294 of the IPC is concerned, this Court in *N.S. Madangopal and another Vs. K. Lalitha* reported in *(2022) 17 SCC 818* has explained the true purport and scope of Section 294 of the IPC. It is further observed that it has to be noted that in the instant case the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all

cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamatory words by itself cannot attract an offence under section 294(b) of the IPC. It is further observed that mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others which is lacking in the case.

12. In the light of the above observation of the Hon'ble Apex Court if evidence in the present case is taken into consideration the evidence of PW-1 informant nowhere stated that due to the utterance of the word by the accused he felt annoyed or the other members of the society. Thus in the absence of legal evidence to show that the words uttered by the accused annoyed others it cannot be said that the ingredients of the offence under Section 294 (b) of IPC are made out. Thus, in the present case except the abusive language there is no allegation at the most as observed by the Hon'ble Apex Court it could be filthy words by themselves and that is not sufficient to attract the offence under Section 294 (b) of the IPC.

13. As far as Section 506 (2) of the IPC is concerned, it is to be seen in the light of the definition of criminal intimidation given under Section 503 of the IPC. For constituting the criminal intimidation the essential ingredients are (i) threatening a person with any injury (ii) to his person reputation or property or (iii) to the person or reputation of any one in whom the person is interested. To attract the section 506 (2) the threat must be with intent to cause alarm to that person or to cause that person to do any act which he is not legally bound to do, as the means of avoiding the execution of such threat, or to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

14. Thus, considering the scope of Section 506(2) of IPC admittedly except the abuses there is nothing on record to show that there was any threat which was caused to the complainant with any injury. Therefore, offence under Section 506(2) is also not made out.

15. In the light of the above observations admittedly the judgment passed by the 2nd Additional Chief Judicial Magistrate, Nagpur and confirmed by the Additional Sessions Judge, Nagpur

in which the basic ingredients which required for constituting the offence are not considered by the both Courts.

16. It is well settled that sole testimony of the witness is sufficient to warrant conviction when it inspires confidence. As far as the evidence of PW-1 in the present case is concerned, which is not sufficient even to infer that the offence under Section 294(b) and 506(2) is made out.

17. Considering the scope of revision this Court interfere in revisional jurisdiction under Section 397 of the Criminal Procedure Code in a limited manner and therefore, it is not expected to sit as a Court of appeal and re-appreciate the evidence. However, when the finding of the courts below appear to have been recorded on the basis of no evidence or evidence which even if believed in entirely cannot prove the guilt of the accused for the offences charge and therefore, it would be justified in exercising the jurisdiction under Section 397 of the Code of Criminal Procedure.

18. In view of this Criminal Revision filed by the applicant deserves to be allowed.

19. On going through the entire evidence and on examining the record the judgment and order of conviction passed by the Judicial Magistrate and confirmed by the Appellate Court appears to be suffering from infirmity and requires interference from this Court and it is also without considering the basic ingredients of the offence. In view of that both the judgments appear to be incorrect and therefore, the interference is called for. In view of that revision application deserves to be allowed.

20. Accordingly, I proceed to pass following order.

(i) Criminal Revision is allowed.

(ii) The judgment and order passed by the Judicial Magistrate First Class, Nagpur in Regular Criminal Case No.148/2010 and confirmed in Criminal Appeal No.145/2015 is quashed and set aside.

21. Criminal Revision stands disposed of.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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