

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 30TH DAY OF MAY 2011

BEFORE

THE HON'BLE MR.JUSTICE A. S. PACHHAPURE

CRIMINAL APPEAL No.2616/2009

BETWEEN:

Krishna Shankar Hegde,
Lecturer, Pre-University College,
Kavalakki,
Now at Salkod Paiki,
Gummekeri,
Honnavar Taluk.

... APPELLANT

(By Sri V Dalvai, Adv. Circuit Law Firm)

AND:

1. Sachidananda Hegde,
Editor & Publisher.
Dhyeyanistha Patrakarta,
Weekly, Sirsi.

2. Vijayakumar Karki, Reporter.
Dhyeyanistha Patrakarta,
Weekly, Sirsi.
Now at Kaki, Honnavar.

... RESPONDENTS

(By Sri Arun Joshi & Associates, Adv.)

This criminal appeal is filed under Section 378(1)
of Cr.P.C. praying to set-aside the judgment and
acquittal order dated 26.3.2009 passed by Principal

JMFC, Honnavar, in C.C.No.797/2004 and convict the respondents for an offence punishable under Sections 499, 500 and 501 of IPC.

This appeal coming on for admission this day, the Court delivered the following:

JUDGMENT

The appellant has approached this Court in appeal challenging the acquittal of the respondents for the charge under Sections 499, 500 and 501 of IPC and directing him to pay compensation of Rs.2000/- to the respondents.

2. The facts relevant for the purpose of this appeal are as under:

Accused No.1 is the editor and publisher of "Dhyeyanistha Patrakarta, a weekly news paper, whereas respondent No.2 is the reporter. In the newspaper at Ex.P.4 dated 8.10.2003 a news item was published as against the appellant stating that the appellant who is teacher in an educational institution is negligent in his duties and has involved in immoral activities. It is after publication of this item with the



photograph of the appellant, that the appellant issued a notice and ultimately approached the trial Court with a complaint for taking action against the respondents for the aforesaid offences.

3. During trial, the complainant is examined as PW.1. Documents Ex.P.1 to P.6 were marked. The statement of the accused was recorded under Section 313 of Cr.P.C. The respondents produced few documents during their statement. The trial Court after hearing the learned Counsel for the parties and on appreciation of the material on record, granted an order of acquittal with a direction to pay compensation of Rs.2000/- to the accused.

4. Aggrieved by the order, the present appeal has been filed.

5. I have heard the learned Counsel for both the parties.

6. The perusal of the cross-examination of PW.1 reveals that there were disciplinary proceedings



initiated against the appellant by the management. The appellant was suspended from service and it is suggested to PW.1-the appellant, that suspension and dismissal was on the charge of dereliction of duties and involvement in immoral activities. Though the appellant admits his suspension and dismissal from service, he pleads ignorance about the order of dismissal on the aforesaid grounds. During the statement recorded under Section 313 Cr.P.C. the accused have produced the copy of the resolution and other documents, the perusal of which reveal the involvement of the appellant in the immoral activities and his dismissal from service on the said ground. So, in the absence of any material on record, to prove that the dignity of the appellant has been lowered in the eyes of the public, the acquittal of the respondents is justified. Further more, apart from PW.1- the complainant, no other witnesses have been examined to prove and establish that the imputation lowered down the dignity of the appellant in the public.



7. Though the learned Counsel for the appellant contended that sufficient opportunity has not been given, the fact that the matter was pending for evidence for about two years itself is sufficient to show that ample opportunity was given to the appellant to produce the evidence. The perusal of the documents produced by the respondents with regard to the disciplinary inquiry subsequent to his dismissal from service would reveal that whatever that was published in the newspaper at Ex.P.4 was for the public good and it is in these circumstances, that the trial Court has come to the conclusion that the act of defamation has not been proved. The appellant has not made out any such grounds to warrant interference in the appeal.

8. This is an appeal against acquittal. The appellate Court will be slow to interfere with the order of the trial Court and even if a second view is possible, the one accepted by the trial Court cannot be disturbed. In the context of the material placed on record and on re-



appreciation of material on record it does not reveal any such grounds to award conviction.

9. So far as the award of compensation of Rs.2000/- is concerned, as the respondents have been acquitted of the charge there was no necessity for the learned Magistrate to award any compensation as whatever fact was there was published in the newspaper and when the accused were acquitted of the charges no such ground has been made out by the accused to grant compensation amount.

10. In that view of the matter, as there is no merit in this appeal it is dismissed by affirming the acquittal of the respondents of the charges under the aforesaid sections. The order and direction of the trial Court to pay compensation is set aside.

Misc.Crl.No.15632/09 does not survive for consideration and hence it is rejected.

**Sd/-
JUDGE**

Sub/