



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

Criminal Application (APL) No. 736 of 2023

Satyaswarup S/o Haridas Meshram

Versus

State of Maharashtra through Police Station Officer, Bhandara, District
Bhandara and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.P.Modak, Advocate for the applicant.

Ms. Mayuri Deshmukh, APP for the non-applicant/State.

Ms. Ayushi Dangre, Advocate for the non-applicant no.2.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 23rd APRIL, 2025.

The applicant has been charge-sheeted under Section 509 which says that whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years and also with fine.

2. The applicant by way of present application is seeking to quash the charge-sheet No. 152 of 2023 dated 16th June, 2023 arising out of First Information Report in Crime No. 565 of 2022 dated 14th November, 2022 registered with Police Station Bhandara, District Bhandara for the offence referred herein above.

3. It is the case of the prosecution that complainant who is a lady, lodged a complaint with the police station alleging that she is a Senior Clerk at State Bank of India and the applicant is Assistant General Manager in the said Bank posted at Gondia. It is alleged that on 11th August, 2021, the applicant visited the Bhandara Branch and sought review of the employees of the Bank. It is alleged that the applicant was dissatisfied with the performance of the complainant and he expressed it by uttering the words that the complainant should try to convince the customer as she convince her husband. It is alleged that utterance of these words amounts to insult to her modesty. There is also reference to the subsequent incidences dated 28th August, 2022 and 16th September, 2022.

4. However, after going through the narration of such incidences, it appears that whatever words uttered by the applicant were for the better administration of the Bank, though said words can be said to be at the most disgraceful.

5. But in subsequent incidents no words or gesture used which can be said to be of a nature to insult the modesty of the non-applicant No.2.

6. In the above referred backdrop, learned counsel for the applicant argued that the prerequisites to attract Section 509 of Indian Penal Code are absent. Accordingly, he prays for quashing of the charge-sheet.

7. On the other hand, learned Additional Public Prosecutor and learned counsel for the non-applicant no.2 strongly opposed the application and submits that there is sufficient material available on record to show the complicity of the applicant in the alleged offence and further allegation made in the First Information Report constitutes the offence as alleged.

8. Ms. Dangre, learned counsel for the non-applicant no.2 argues that a test of outrage of modesty must be whether the reasonable man will think to act of the offender was intended to or was known to be likely of outrage of modesty of woman. She accordingly submits that the words utter by the applicant in the meeting dated 11th November, 2021 was with an intention to insult the modesty of the complainant. She therefore submits that offence under Section 509 of Indian Penal Code is constituted against the applicant. She, therefore, prays for rejection of the present application.

9. Ms. Dangre, learned counsel for the non-applicant no.2 in support of her submission has placed reliance of the Delhi High Court in the case of *Varun Bhatia Vs. State and another* reported in **2023 SCC OnLine Del 5288**, wherein Delhi High Court has discussed authorities of the Hon'ble Supreme Court of India.

10. In light of rival contentions, we have perused the charge-sheet. The words uttered by the applicant are that "the complainant

should convince customer as she convince her husband”, are considered by the complainant insult to her modesty.

11. In the case of *Varun Bhatia Vs. State and another* (supra) has held thus:

“17. The essential ingredients of Section 509 IPC are as under:

i. Intention to insult the modesty of a woman;

ii. The insult must be caused by:

a. uttering any words, or making any sound or gesture, or exhibiting any object intending that such word or sound shall be heard or that the gesture or object shall be seen by such woman, or

b. intruding upon the privacy of such a woman.

18. Section 509 of the Indian Penal Code delineates two pivotal components for establishing an offence : firstly, the presence of an intention to insult the modesty of a woman, and secondly, the manner in which this insult is perpetrated. The cornerstone of this provision is the requirement of intent, where the accused must possess a deliberate intention to affront or insult the modesty of a woman. This intent sets apart ordinary speech or actions from those that amount to an offence under Section 509. The insult itself can take place through two distinct modes. It can occur verbally or visually by uttering specific words, making sounds, or displaying gestures or objects, with the deliberate intent that these words, sounds, gestures, or objects are heard or seen by the woman involved. Alternatively, insult can manifest as an intrusion upon the woman's privacy, meaning thereby encroaching upon her personal space or violating her sense of privacy intentionally, in a manner that affronts her modesty. In essence, Section 509 emphasizes that intent is the linchpin of this offence, necessitating a deliberate affront to a woman's modesty for the Section to be invoked.

22. The Hon'ble Apex Court in State of Punjab v. Major Singh 1966 Supp SCR 286 had made observations with regard to outraging the modesty of a woman, and the relevant observations read as under:

"3. I would first observe that the offence does not, in my opinion, depend on the reaction of the woman subjected to the assault or use of criminal force. The words used in the section are that the act has to be done "intending to outrage or knowing it to be likely that he will thereby outrage her modesty". This intention or knowledge is the ingredient of the offence and not the woman's feelings. It would follow that if the intention or knowledge was not proved, proof of the fact that the woman felt that her modesty had been outraged would not satisfy the necessary ingredient of the offence. Likewise, if the intention or knowledge was proved, the fact that the woman did not feel that her modesty had been outraged would be irrelevant, for the necessary ingredient would then have been proved. The sense of modesty in all women is of course not the same; it varies from woman to woman. In many cases, the woman's sense of modesty would not be known to others. If the test of the offence was the reaction of the woman, then it would have to be proved that the offender knew the standard of the modesty of the woman concerned, as otherwise, it could not be proved that he had intended to outrage "her" modesty or knew it to be likely that his act would have that effect. This would be impossible to prove in the large majority of cases. Hence, in my opinion, the reaction of the woman would be irrelevant.

4. Intention and knowledge are of course states of mind. They are nonetheless facts which can be proved. They cannot be proved by direct evidence. They have to be inferred from the circumstances of each case. Such an inference, one way or the other, can only be made if a reasonable man would, on the facts of the case, make it. The question in each case must, in my opinion, be : will a reasonable man think that the act was done with the intention of outraging the modesty of the woman or with the knowledge that it was likely to do so? The test of the outrage of modesty must, therefore, be whether a reasonable man will think that the act of the offender was intended to or was known to be likely to outrage the modesty of the woman. In considering the question, he must imagine the woman to be a reasonable woman and keep in view all circumstances concerning her, such as, her station and way of life and the known notions of modesty of such a woman. The expression "outrage her modesty" must be read with

the words "intending to or knowing it to be likely that he will". So read, it would appear that though the modesty to be considered is of the woman concerned, the word "her" was not used to indicate her reaction. Read all together, the words indicate an act done with the intention or knowledge that it was likely to outrage the woman's modesty, the emphasis being on the intention and knowledge."

(Emphasis Supplied)

12. From the above referred observations, it is evident that essential ingredients to constitute the offence under Section 509 of Indian Penal Code are (1) intention to insult the modesty of woman (2) such insult must be caused by (a) uttering and words making any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman (b) intrudes upon the privacy of such woman.

13. In the teeth of the above referred well settled principle of law if the facts of the present case are considered, it is evident that the alleged first incident is dated 11th August, 2021. Whereas, the report was lodged on 13th November, 2022 i.e. after a period of more than one year.

14. Furthermore, it is not the case of the prosecution that such words namely "convince the customer as you convince your husband"

were used by the applicant with an intent to insult the modesty of the complainant.

15. The Assistant General Manager on which post the applicant was working at the relevant time, has to perform many administrative works. He works as a connecting link between the workforce and senior management. He needs to perform many responsibilities to ensure smooth functioning and maintain business efficiency within the organization. Such responsibility also include overseeing the administrative task and potentially supervising the office staff. The officer on such a post therefore, often requires to interact with the colleagues from different departments and to hold meetings to boost the staff's confidence, morals and motivation to ensure compliance with the organizational policies.

16. Thus, in the case in hand considering the purpose of meeting dated 11/08/2021 and reasons to utter such words during the meeting do not show any intention of the applicant to insult the modesty of the complainant. Particularly, when whole object and

purpose of such conversation of the applicant with the complainant was to see that her performance should be improved while performing her official duties.

17. As we have already observed that as far as incidents dated 16th September, 2022 and 28th August, 2022 are concerned, at the most it can be said that the words used are disgraceful. But, in any case those cannot be considered as words insulting modesty of the complainant.

18. In the circumstances, we are of the opinion that even if the allegations made in the First Information Report are taken on its face value, no offence constitutes as alleged under Section 509 of Indian Penal Code.

19. In the circumstances, it would be unjust and improper to compel the applicant to face the trial. In that view of the matter, we are of the opinion that charge-sheet needs to be quashed and set aside. Accordingly, we proceed to pass the following order:

ORDER

- i. The Criminal Application is allowed;

ii. Regular Criminal Case No.182 of 2023 pending on the file of learned Chief Judicial Magistrate, Bhandara arising out of First Information Report No. 0565 of 2022 dated 14th November, 2022 and Charge Sheet No. 152 of 2023 dated 16th June, 2023 for the offence punishable under Section 509 of Indian Penal Code is hereby quashed and set aside against the applicant - **Satyaswarup S/o Haridas Meshram.**

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]