

(2025) 01 SC CK 0109

Supreme Court Of India

Case No: Criminal Appeal No. 4884 Of 2024 [Arising Out Of Special Leave Petition
(Criminal) No. 10082 Of 2019]

Madhushree Datta

APPELLANT

Vs

State Of Karnataka & Anr

RESPONDENT

Date of Decision: Jan. 24, 2025

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 155(2), 173(2), 482
- Indian Penal Code, 1860 - Section 319, 321, 323, 354, 504, 506, 509, 511

Hon'ble Judges: Dipankar Datta, J; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Prerna Mehta, D. L. Chidananda, Dr. J. P. Dhanda

Final Decision: Allowed

Judgement

Dipankar Datta, J.

THE APPEAL

1. By a common impugned judgment and order dated 31st July, 2019 ~impugned order~™, a learned Judge of the High Court of Karnataka

~High Court~™ dismissed Criminal Petition No. 3961 of 2015 (Badrinarayana Jaganathan vs. State of Karnataka & Anr.) and Criminal Petition

No. 3962 of 2015 (Madhushree Datta vs. State of Karnataka & Anr.), both filed under Section 482 of the Code of Criminal Procedure, 1973 ~Cr.

PC~™, seeking quashing of the chargesheet filed under Section 173(2), Cr. PC and the entire proceedings in Case Crime No. 53073 of 2014, on the

file of the Additional Chief Metropolitan Magistrate, Bangalore ~ACMM~™.

2. The accused appellants – appellants – Madhushree Datta – first accused – and Badrinarayana Jaganathan – second accused –

have taken exception to the impugned order by presenting these appeals.

FACTS

3. The proceedings before the ACMM have, as its genesis, an incident of 25th October, 2013. The second respondent as complainant

– complainant – lodged a complaint dated 26th October, 2013 with the Sub-Inspector of Police, H.A.L. Police Station, Marathahalli, Bangalore,

against M/s Juniper Networks India Private Limited – Company – and the appellants. The complainant asserted that she was employed as a

Technical System Analyst at the Company, where she was subjected to ongoing harassment by the management. She claimed that she was coerced

into resigning under duress, with the threat of immediate termination if she did not comply. Specifically, the complainant alleged that on October 25,

2013, between 2:00 p.m. and 3:00 p.m., the first accused, who held the position of Human Resources Manager at the Company, demanded that the

complainant resign under threat of immediate dismissal. Furthermore, the first accused, allegedly instructed the complainant not to return to work and

confiscated her personal belongings, including her laptop, bag, wallet, money, credit cards et cetera. The complainant further asserted that the laptop

contained proprietary intellectual property, specifically codes and other work, that she had personally created. In addition, the complainant alleged that

the management ordered her removal from the premises, with security personnel escorting her out and reportedly engaging in behaviour amounting to

physical harassment, assault and threatening with dire consequences.

4. Following the above complaint, a Non-Cognizable Report – NCR – was registered on 26th October, 2013. The NCR states that the employees

of the Company, namely the appellants, subjected the complainant to both mental and physical harassment by confiscating her laptop, which contained

her data. The complainant subsequently filed a formal complaint seeking an inquiry and investigation into the matter, following her forcible termination

from employment on October 25, 2013.

5. More than 2 (two) months later, a First Information Report – FIR – was lodged by the complainant accusing the Company and the appellants of

having committed offences punishable under sections 323, 504, 506, 509, 511 of the Indian Penal Code, 1860 ~IPC~™. The FIR states that the

Company, along with the first accused, subjected the complainant to both physical and mental torture. They allegedly confiscated the laptop issued to the complainant and forcibly evicted her from the Company.

6. Following the registration of the FIR, an investigation was conducted into the alleged offences under Sections 323, 504, 506, 509, and 511 of the

IPC. A chargesheet was filed on 23rd April 2014, arraigning the appellants as accused. The chargesheet alleges that the appellants physically

assaulted the complainant and confiscated the laptop provided by the Company, preventing her from retrieving the data stored on it. Additionally, the

appellants were accused of scolding the complainant in ~œfilthy language~ and forcibly terminating her employment. Furthermore, with the

assistance of security personnel, the appellants are said to have had the complainant removed from the premises of the Company.

7. Aggrieved thereby, the appellants unsuccessfully approached the High Court as noted above.

IMPUGNED ORDER

8. A perusal of the impugned order reveals that the High Court primarily considered the allegations set forth in the complainant's complaint and

concluded that, prima facie, they meet the necessary elements to constitute the offences attributed to the appellants. The High Court rejected the

appellants~™ objection regarding the procedure followed by the police in registering FIR No. 823/2013, and observed that the materials on record

suggest that the offences alleged against the appellants involve both cognizable and non-cognizable offences. The High Court further held that a mere

lapse in the process of investigation, by itself, would not constitute a valid ground for quashing the proceedings. Moreover, the records indicate that the

investigating officer had obtained the requisite authorization under Section 155(2) of the Cr. PC prior to registration of the FIR. Additionally, the High

Court noted that the alleged offences were committed by employees of the Company, that is, the appellants, and not by the Company itself, without

the Company's consent. Consequently, non-inclusion of the Company as an accused in the chargesheet did not entitle the appellants to seek quashing

of the chargesheet.

CONTENTIONS

9. Mr. Luthra, learned senior counsel for the appellants argued that the High Court erred in failing to exercise its inherent power under Section 482 of

the Cr. PC, and to quash the chargesheet filed against the appellants. He contended that the following points warrant consideration by this Court:

A. Firstly, the FIR and the chargesheet filed by the first respondent fail to disclose a prima facie case against the appellants. The chargesheet,

according to the appellants, does not disclose any of the essential elements of the offences under Sections 323, 504, 506, 509, and 511 of the IPC even

if accepted as true.

B. Secondly, the offences alleged in the complaint are of a general nature and do not specify the appellants' involvement in the commission of the

alleged offences. Categorical assertion is that the second accused was not present in the office on the date of the alleged incident and, therefore, no

specific role has been attributed to him in relation to the alleged offences.

C. Thirdly, the issues pertaining to resignation and termination are civil in nature. Criminal proceedings have been initiated by the complainant solely to

exert pressure on the Company and the appellants, with the intent of coercing them to settle the matter, and thereby enabling complainant to gain an

undue monetary advantage.

D. Fourthly, the allegations levelled in the FIR are so absurd and inherently improbable that no reasonable person could, based on these allegations,

conclude that there are sufficient grounds to proceed against the appellants.

E. Fifthly, the allegations made in the FIR and reiterated in the chargesheet are inconsistent.

F. Sixthly, initially, a NCR was registered against the appellants, and despite the investigation, no new material has been placed on record to

substantiate the commission of a punishable offence under Sections 323, 504, 506, 509, and 511 of the IPC.

G. Seventhly, in criminal proceedings, the appellants cannot be held liable for the actions of a third party. The complainant has alleged that it was the

security guard who harassed and assaulted her, threatening her with dire consequences.

H. Eighthly, no medical examination was conducted by the first respondent on the complainant to ascertain any injury resulting from an alleged assault by the appellants, thereby leading to a serious miscarriage of justice.

I. Finally, it was contended that no FIR based on the complaint dated 26th December, 2013 ought to have been registered on the face of the NCR.

10. Per contra, learned counsel for both sets of respondents supported the High Court's order dismissing the appellants' petitions under Section 482 of the Cr. PC. They vehemently refuted the submissions made by the learned counsel for the appellants and presented the following arguments:

A. Firstly, the allegations made in the complaint, prima facie, disclose the essential ingredients of criminal offences. A plain reading of the complaint, the FIR, and the chargesheet clearly establishes a case against the appellants under Sections 323, 504, 506, and 511 of the IPC.

B. Secondly, the Company and its employees, namely the appellants, subjected the complainant to harassment and humiliation. They issued life threats, engaged in criminal intimidation, committed physical assault, inflicted mental torture, insulted her, and unlawfully seized her intellectual property, including code, data, and other related materials. Furthermore, during the act of forcibly taking her laptop, she was inappropriately touched and handled, thereby subjecting her to physical harassment.

C. Thirdly, the complainant was coerced into tendering her resignation, and when she protested, force was used to compel her to return the laptop.

Additionally, she was physically assaulted and threatened with severe consequences.

CONSIDERATION

11. We have heard learned senior counsel/counsel for all the parties at length and examined the materials on record.

12. The points for determination that emerge for decision are:

(i) Whether, based on the materials on record, prima facie, ingredients of the offences under Sections 323, 504, 506, 509, and 511 of the IPC are made out, even if the allegations are taken at face value and accepted in their entirety?

(ii) Whether the chargesheet and the related criminal proceedings against the appellants, are liable to be quashed?

13. At the outset, we record that none of the two complaints lodged by the complainant - the first on 26th October, 2013 and the next on 23rd

December, 2013 - does with any degree of clarity and certainty suggest the presence of the second accused at the time of the alleged occurrence in

the office premises of the Company. In fact, when this was pointed out to learned counsel for the complainant, he had no answer. Even though it is

admitted that the second accused was not present, we are minded to proceed on the premise as if the second accused too was present. What would

be the effect of arraigning him as an accused though not present shall, however, be dealt with at a later stage of this judgment.

14. While considering the first point, we need to examine in brief the relevant provisions of the IPC.

SECTION 323, IPC

15. To determine what are the ingredients of the offence under Section 323 of the IPC, it is important to read Sections 319, 321 and 323 together.

16. What emerges on a conjoint reading of the aforementioned provisions is that, for a conviction under Section 323 of the IPC, there must be a

voluntary act of causing hurt, i.e., bodily pain, disease, or infirmity, to another person. Therefore, it is essential that actual hurt is caused.

17. Turning to the facts of the case, the complaint merely states that the complainant was forcibly ejected from the Company's office by security

personnel, who allegedly attempted to assault, physically harass, and threaten her with dire consequences. Therefore, the complaint does not directly

attribute any voluntary act of causing hurt to the complainant by any of the two accused.

18. Furthermore, the chargesheet reiterates the similar version set forth in the complaint, stating that the complainant was forcibly thrown out of the

office by the security personnel. While the actions of the security personnel could potentially constitute an offence of causing hurt, they are neither

named in the complaint nor figure as accused in the chargesheet. Having said that, the appellants cannot be said to have foreseen or anticipated the

actions of the security personnel in such a manner that would render them co-perpetrators of the offence. Hence, there is no basis for the prosecution to set forth the concept of liability of the employer or for the overt acts of its employees in this matter.

19. In the light of the abovementioned discussion, we are of the considered opinion that the ingredients of offence under Section 323 of the IPC have not been made out, prima facie, either in the complaint or the chargesheet.

SECTIONS 504 AND 509, IPC

20. The next question for determination is, whether the mere assertion of "filthy language" allegedly used by the appellants in scolding the complainant, is sufficient to establish commission of offences under Sections 504 and 509 of the IPC.

21. In the above context, it would be apt to consider the provisions contained in Section 504 of the IPC.

22. A perusal of Section 504 of the IPC reveals that a mere act of insulting someone does not fulfil its requirements; the insult must be of such a nature that it provokes the person insulted to breach the public peace or engage in criminal conduct. Therefore, to establish the ingredients of Section 504 of the IPC, it must be demonstrated, based on the available material, that there was intentional insult with the intent or knowledge that such insult would provoke either disturbance of the public peace or the commission of any other offence.

23. We may, at this juncture, profitably refer to the decision of this Court in *Fiona Shrikhande v. State of Maharashtra & Anr.* AIR 2014 SC 2013,

wherein Section 504 of the IPC came up for interpretation and it was held as under:

“13. Section 504 IPC comprises of the following ingredients, viz., (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in

such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC.

14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, *prima facie*, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504 IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 IPC.â€

(emphasis supplied)

24. In the instant case, the chargesheet states that the appellants used ""filthy language"" while scolding the complainant; however, no such allegation is made against the appellants in the complaint. Furthermore, it is nowhere alleged that this act of using filthy language and insulting the complainant by the appellants, has provoked the complainant to commit breach of public peace or to commit any other offence. Therefore, from the materials on record, the ingredients of the offence under Section 504 of the IPC, as explained in the abovesaid decision, are not satisfied.

25. For ascertaining whether, *prima facie*, the provision of Section 509 of the IPC was attracted, it is essential to first understand the meaning of the term ""modesty"", to determine whether modesty has been insulted. While modesty is not explicitly defined in the IPC, this Court has addressed the essence of a woman's modesty in the decision in *Ramkripal v. State of Madhya Pradesh* (2007) 11 SCC 265. Excerpts from the decision read as under:

12. What constitutes an outrage to female modesty is nowhere defined in IPC. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex...

(emphasis supplied)

26. Further, this Court while discussing the test for outraging the modesty of a woman under Section 509 of the IPC in *Rupan Deol Bajaj v. Kanwar*

Pal Singh Gill (1995) 6 SCC 194, observed as under:

15. In *State of Punjab vs. Major Singh* (AIR 1967 SC 63) a question arose whether a female child of seven and a half months could be said to be possessed of

'modesty' which could be outraged. In answering the above question *Mudholkar J.*, who along with *Bachawat J.* spoke for the majority, held that when any act

done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind that must fall within the mischief of Section 354 IPC.

Needless to say, the 'common notions of mankind' referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge

(*Bachawat J.*) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From

the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in *Major Singh's* case (*supra*) it appears to us that the ultimate

test for ascertaining whether modesty has been outraged is, is the action of the offender such as could be perceived as one which is capable of shocking the sense of

decency of a woman...

(emphasis supplied)

27. The conclusion that emerges from the above discussion is that it will be essential for this Court to carefully assess the evidence presented, in order

to determine whether there is sufficient material to establish the intention and knowledge on the part of the appellants, to insult the modesty of the

complainant or, to put it pithily, whether any act was intended to shock the sense of decency of the complainant being a woman.

28. The term "'filthy language,'" when examined in isolation, and without any contextual framework or accompanying words, indicating an intent to insult the complainant's modesty, does not fall within the purview of Section 509 of the IPC. Had there been references to specific words used, contextual details, or any gestures—whether preceding, succeeding, or accompanying these words—that could demonstrate a criminal intent to insult the modesty, and it might have assisted the prosecution in establishing the case against the appellants.

29. In considering the term "'filthy language'" objectively, in the overall conspectus of the case, we are of the view that the appellants' actions do not demonstrate the requisite intent or knowledge that would reasonably lead to the conclusion that their conduct could provoke such a severe emotional response as to constitute an insult to a woman's modesty.

30. Be that as it may, it goes without saying that each case must be assessed having regard to the specific facts and circumstances, not only of the case itself, but also of the individuals involved in the alleged incident. It is undisputed that the complainant and the appellants were positioned as an employee and senior officials, respectively. Moreover, it is evident from the case presented by both parties that a dispute existed between them with regard to the employment in question.

31. To reiterate, in the present case, the complaint does not indicate that the appellants used language towards the complainant that would warrant an offence under Section 509 of the IPC. However, the chargesheet alleges that the appellants scolded the complainant using "'filthy language.'" Notably, this allegation is also absent in the FIR.

32. In light of the employer-employee relationship between the appellants and the complainant; the existing dispute between them relating to the employment; the absence of any references to specific words used, contextual details, or accompanying gestures—whether preceding or succeeding the alleged words—the failure to mention the use of any "'filthy language'" in the complaint; and the fact that this allegation is only found in the chargesheet: there are serious concerns regarding the claim of insulting modesty of the complainant by the appellants. Considering the materials

available on record, we are of the view that prima facie ingredients of an offence under Section 509 of the IPC have not been disclosed.

SECTION 506, IPC

33. This brings us to the offence under Section 506 of the IPC, which the High Court has found to be prima facie disclosed against the appellants.

Section 506 of the IPC prescribes the punishment for the offence of criminal intimidation, while Section 503 defines the offence of criminal intimidation.

34. This Court had the occasion to examine the ingredients of Sections 503 and 506 of the IPC in *Manik Taneja and Another v. State of Karnataka &*

Anr. (2015) 7 SCC 423, where it was observed as follows:

“11. xxxxxxxxxxxx A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.”

35. In the present case, the complaint does not specifically attribute any threats or intimidation to the second accused. Therefore, ingredients of

Section 506 of the IPC, prima facie, are not made out against him. The argument that the first accused acted at the behest of the second accused is

untenable, as Section 34 of the IPC, which imposes vicarious liability in criminal matters, has not been applied in this case.

36. However, the complainant has stated in her complaint that she was threatened by the first accused, as detailed below:

“Then on 25-10-2013 at about 2.00 P.M. and 3-00 P.M. one MADHUSHIREE DUTTA (HR) asked me to forcefully resign or otherwise I will be sent out immediately. Further she abruptly asked me not to come for my work henceforth”.

37. Before an offence of criminal intimidation to be made out against the first accused, it must be established that she had the intention to cause alarm

to the complainant. A review of the alleged threat reveals that the complainant is primarily alleging illegal termination, which constitutes a civil dispute,

rather than criminal intimidation. It is also the appellants' case, which has not been disputed by the complainant, that the complainant has filed a reference before the labour court challenging her termination and seeking reinstatement along with back wages. Given these circumstances and the materials on record, the ingredients of Section 506 of the IPC, prima facie, are not disclosed against the first accused too.

38. After a thorough examination of the matter, including a review of the materials on record: viz., the complaint, the FIR, and chargesheet, we are of the view that none of the ingredients of Sections 323, 504, 506, and 509 of the IPC are present, even if they are taken at face value and accepted in their entirety. The complaint is bereft of even the basic facts, which are absolutely necessary for making out an offence.

39. Since the ingredients of the offences under the aforementioned sections have not been made out, the charge under Section 511 of the IPC cannot stand.

40. To sum up, after the complainant filed the complaint, a NCR was registered. It indicated that no cognizable offence was initially believed to have been committed against the complainant. Subsequently, an FIR was lodged on 23rd December, 2012, i.e., 58 (fifty-eight) days after the initial complaint was filed, under Sections 323, 504, 506, 509, and 511 of the IPC. It is pertinent to note that only Section 509 constitutes a cognizable offence, whereas Sections 323, 504, and 506 are non-cognizable offences. Furthermore, the FIR does not contain any allegations that would substantiate a charge under Section 509 of the IPC. Additionally, the chargesheet is the sole document that alleges the use of "filthy language" by the appellants in scolding the complainant. The discrepancies and variations outlined above, suggest a deliberate attempt to reclassify the nature of the proceedings from non-cognizable to cognizable or to transform a civil dispute into a criminal matter, potentially aimed at pressurizing the appellants into settling the dispute with the complainant.

41. Notwithstanding this, and as asserted by the appellants, there are certain facts that strongly suggest that the criminal proceedings were initiated by the complainant against the appellants with mala fide intentions, specifically to wreak vengeance, cause harm, or coerce a settlement. The presence of

the second accused cannot by any stretch of imagination be visualised, if one were to barely read the complaints - initial and subsequent " and treat the contents as true; yet, the complainant alleged acts against him which, according to her, amounted to criminal offence. We are reminded of the maxim *res ipsa loquitur* and leave the discussion at that.

42. The legal principles governing the exercise of jurisdiction under Section 482 of the Cr. PC for quashing complaints and criminal proceedings have been formulated by this Court in a plethora of decisions. We see no reason to burden this judgment of ours by referring to the same. However, we are fully convinced that allowing the criminal proceedings to proceed against the appellants would amount to an abuse of the legal process and result in a travesty of justice.

43. In view of the foregoing discussion, we are also of the view that the arguments advanced by Mr. Luthra on the permissibility of the police to register the FIR on 23rd December, 2013 need not be examined in this appeal.

CONCLUSION

44. We, therefore, answer point (i), referred to in paragraph 12 (*supra*) in the negative while point (ii) of the same paragraph is answered in the affirmative.

45. Thus, the impugned order passed by the High Court, dated 31.07.2019, cannot be sustained and, consequently, stands set aside. The chargesheet and the entire proceedings in Case Crime No. 53073 of 2014, on the file of the ACCM, Bangalore, against the appellants also stand quashed.

46. The appeals are, accordingly, allowed.

47. We, however, make it clear that the findings/observations recorded/made herein shall have no bearing on the pending reference between the parties before the Labour Court.