

(1913) 07 BOM CK 0024**Bombay High Court****Case No:** Criminal Application for Revision No. 166 of 1913

Emperor APPELLANT

Vs

Moro Balvant Marathe RESPONDENT

Date of Decision: July 13, 1913**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 504, 95

Citation: (1913) 15 BOMLR 1039**Hon'ble Judges:** Shah, J; Batchelor, J**Bench:** Division Bench**Judgement**

Batchelor, J.

This is an application in our revisionary Jurisdiction and is made by one Moro Balvant Marathe who is a pleader of the District Court of Belgaum. He has been convicted of assault otherwise than on grave provocation u/s 352 and of intentional insult with intent to provoke a breach of peace u/s 504 of the Indian Penal Code. He has been sentenced to a total fine of Rs. 16.

2. It appears that the complainant, who is not a pleader, intruded into the Pleaders' Room at Belgaum in order to see the Hon'ble Mr. Belvi who is a pleader in that District. The applicant objected to the complainant's presence, and in his presence the rule was read out to the effect that the room was reserved for pleaders, and that if any person not a pleader entered the room and his presence was objected to, it was incumbent upon such person to withdraw. The complainant, however paid no attention to the hint thus conveyed to him and the applicant then formally notified to him his objection to his presence in the room, reserved for pleaders. The complainant, however, instead of having the grace to withdraw from the room where he had no right to be and where his presence was objected to, refused to leave the room and sat resolutely down. Then the applicant went to him and put him out of the room. Afterwards the complainant again returned to the Pleaders' Room, and on that occasion the applicant used to him abusive language, for which he has

been convicted u/s 504. Very shortly after this somewhat trifling but unfortunate occurrence, the applicant sent to the complainant an apology in which, alluding to the incident which " had just occurred," he says : " I feel great regret and apologise to you for that incident. In consequence of certain circumstances to which I need not refer, I lost my temper which I ought not to have lost. Whatever it may be, I feel very sorry, for what occurred and I beg to be excused. Let the matter end there with common understanding." Three days after wards, however, the complainant elected to file this complaint. We agree with the learned Sessions Judge in thinking that the " Pleaders" Room in the District Court of Belgaum was, for our present purposes, a private room and that the complainant was not entitled to persist in remaining there after his presence had been objected to. That he did so persist is, in our opinion, clear evidence that his intention was to annoy the applicant. There is no evidence upon which we can believe that any unnecessary violence, or indeed any real violence at all, was used by the applicant towards the complainant, and in these circumstances we do not find that the applicant exceeded his rights in putting this trespasser out of the " Pleaders" Room. The charge, therefore, u/s 352 cannot be sustained.

3. As regards the charge u/s 504, Mr. Bakhale has with some vehemence urged upon us the contention that the actual words of abuse, whatever may be their etymological significance, are yet used amongst the people in common every day life without any particular meaning or sting. While we do not deny that there may be some force in this argument, we wish to express our unqualified disapproval of the use of such words as those proved here to have been used by a pleader in the District Court premises. At the same time when we pay attention to the circumstances of provocation in which those words were uttered, to the frank and sincere apology which immediately followed their use, we come to the conclusion that the use of them may, without undue straining, be brought within the protection allowed by Section 95 of the Indian Penal Code to acts which, though likely to cause harm are likely to cause only such slight harm that no person of ordinary sense and temper would complain of them.

4. We think, therefore, that the conviction u/s 504 is also unsustainable.

5. For these reasons we make the rule absolute, reverse the convictions and sentences and direct that the fine, if paid, be refunded.