

(1931) 11 BOM CK 0016

Bombay High Court

Case No: None

Philip Rangel

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision:** Nov. 25, 1931**Acts Referred:**

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

**Citation:** AIR 1932 Bom 193 : 137 Ind. Cas. 186**Hon'ble Judges:** Beaumont, C.J; Broomfield, J**Bench:** Division Bench

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**Judgement**

Beaumont, C.J.

This is an application in revision against a conviction by the Chief Presidency Magistrate, Bombay, of the applicant u/s 504 of the Indian Penal Code.

2. It is, I think, rather unfortunate that the learned Magistrate did not recall to his mind the terms of Section 95 of the Indian Penal Code and decline to go into the matter at all, because it is really the sort of case which ought not to be allowed to take up the time of the Criminal Courts.

3. It appears that there was a meeting on February 13, 1931, of the share-holders of the Central Telegraph Office Credit Cooperative Bank Limited. The accused had been one of the twenty six persons who had requisitioned the meeting, and at the meeting it was proposed that the requisitionists should be expelled from the company. The accused was very angry at this, and he said that not even the Governor-General could expel members from the company. He then proceeded to leave the room, and as he was leaving the room he muttered the words "You damn bloody bastards and cads", and these words, although not addressed to the meeting in general, were overheard by some members who were present. The attention of the Chairman was called to the conduct of the accused, and he dealt with the matter.

4. Now the accused is prosecuted u/s 504 of the Indian Penal Code, and in order to constitute an offence under that section it is necessary to show that the accused intentionally insulted and thereby provoked some person intending or knowing it to be likely that such provocation would cause him to break the public peace or commit any other offence. So that first of all there has got to be an intentional insult, and that insult has got to be intended or known to be likely to provoke a breach of the public peace or some other offence. We are not concerned with any breach of good manners. Of course the accused in using the expression he did was guilty of bad manners, and I have no doubt that when he recovered his temper he recognised that, and was sorry for it. Nor are we concerned with whether the accused did something for which the Chairman could call him to order. We have to consider whether he committed an offence u/s 504. Now the learned Magistrate says that undoubtedly the words are an insult, for, as he says; "It is very vulgar abuse reflecting on the chastity of their mothers." Well, if A calls B a bastard in circumstances which suggest that he means what he says, that no doubt does reflect on the chastity of B's mother, and nobody would suggest that it was not an insult to B. But when you find that the accused described all the members present at this meeting--we are told about forty members were present--of whose antecedents the accused presumably knew nothing at all, as bastards, it seems to me quite impossible to suppose that he meant literally that they were all persons born out of wedlock. It is much more probable that he was using a mere term of vulgar abuse. And when you find that he qualifies the description bastard by the adjective "bloody," although there is no suggestion that there was bloodshed at the meeting, it seems to me abundantly clear that this expression was not intended to be taken literally but was intended as mere abuse.

5. Section 504 does not make it an offence to use abusive language which may lead to a breach of the public peace. There must be an intentional insult. Now an insult may be offered by words or conduct, but in my opinion when the charge is of an insult by words, the words must amount to something more than what in English Law is called "mere vulgar abuse". If abusive language is used in such circumstances that the court comes to the conclusion that it cannot possibly have been intended, and cannot have been understood by those to whom it was addressed to have been intended, to be taken literally, then I think the language cannot be held to amount to an intentional insult. No doubt the use of abusive language may form an important part of an insult by conduct. But in this case there was nothing insulting in the accused's conduct apart from the language he used. He did not adopt a loud and insolent tone, and indeed did not intend his remark to be heard. I think therefore that there was no intention to insult. If, however, I am wrong in that, I think further that the insult, if any, was not intended or known by the accused to be likely to lead to a breach of the public peace or any other offence. It was no doubt perfectly natural for the share-holders present to resent the use of this rude language, and to call the attention of the Chairman to the conduct of the accused in using it, and it

was proper for the Chairman to deal with the accused. But I cannot conceive that it was likely that the persons present at the meeting would so far lose control of themselves as to commit a breach of the public peace when they had got the chairman of the meeting in control and capable of dealing with the matter.

6. I think the application must be allowed and the conviction set aside. The fine will be refunded.

Broomfield, J.

7. The objectionable words in respect of which the applicant has been convicted of an offence u/s 504 were clearly not intended to be taken in their literal sense. With all deference to the learned Magistrate, it is impossible to suppose that the applicant intended to impute unchastity to the mothers of all the forty persons present at the meeting. The words were undoubtedly mere vulgar abuse, and the question therefore arises whether the applicant can be said to have had an intention to insult within the meaning of Section 504.

8. Now there is some authority for holding that words which do not amount to more than vulgar abuse may nevertheless amount to insult within the meaning of this section. In the case of *Girish Chunder Mitter v. Jatadhari Sadukhan* 26 C. 653 a Full Bench of the Calcutta High Court had to consider the question whether the mere use of abusive language such as *sola*, *haramzadasoor*, *baperbeta*, etc, was actionable irrespective of special damage. The majority of the court found that such language was not actionable. But all the learned Judges appear to have been of opinion that it would form a foundation for a criminal prosecution u/s 504, and in fact the person who had used the abusive language in that case had been convicted under that section. However, as the learned Chief Justice says, bad language which is meaningless can only be regarded as insulting if the circumstance make it so. Even if there was in this case a technical offence u/s 504, it is clearly not a case in which the Criminal Courts should have been approached. I think the circumstances are covered by the provisions of Section 95, and that therefore the accused is entitled to be acquitted.