



IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 18<sup>TH</sup> DAY OF AUGUST 2020

BEFORE

THE HON'BLE MRS.JUSTICE M.G.UMA

**CRL.APPEAL NO.2593/2011**

BETWEEN:

SELVINA KOM PETER BYARKO,  
AGE: 36 YEARS, OCC: TEACHER,  
R/O: BUNDER ROAD, NEAR TMC  
BHATKAL TALUK,  
DIST: U.K.

... APPELLANT

(BY SRI. ANANT HEGDE, ADV.)

AND:

1. GANESH P.  
AGE: 36 YEARS,  
EDITOR, PUBLISHER & PRINTER,  
KADALA KOOGU WEEKLY MAGZINE,  
SWAMIKRUPA, M.T.ROAD,  
GANGOLLI, BHATKAL,  
DIST: U.K.
2. RAGHAVENDRA R. BHAT,  
AGE: 35 YEARS,  
REPORTER KADALA KOOGU & PRAJAVANI,  
R/O: JALI, BHATKAL TALUK,  
DIST: KARWAR.

... RESPONDENTS

(BY SRI. VENKATESH M. KHARVI, ADV.)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) OF CR.P.C. SEEKING TO SET ASIDE THE ORDER DATED 05.01.2011 IN C.C. NO.1719/2005 PASSED BY THE PRINCIPAL CIVIL JUDGE (JR.DN.) AND JMFC, BHATKAL AND CONVICT THE ACCUSED/RESPONDENTS FOR THE OFFENCES PUNISHABLE UNDER SECTION 500 OF CR.P.C.

RESERVED FOR JUDGMENT ON: 10.08.2020.

JUDGMENT PRONOUNCED ON : 18.08.2020.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT PASSED THE FOLLOWING:

JUDGMENT

The appellant/complainant approached this Court aggrieved by the judgment dated 05.01.2011 passed in C.C.No.1719/2005, on the file of the learned Principal Civil Judge (Jr.Dn.) and JMFC, Bhatkal (for short, referred to as the 'trial Court'), acquitting respondents/accused Nos.1 and 2 for the offence punishable under Section 500 of Indian Penal Code (for short, referred to as IPC).

2. Heard the learned counsel for the appellant Sri. Anant Hegde, through video conference and the learned counsel Sri. Venkatesh M.Kharvi for the respondents.

3. Brief facts of the case of the complainant before the trial Court is that, accused No.1 is the printer, publisher and editor and accused No.2 is the reporter of 'Kadala Koogu' weekly magazine. It is stated that the accused have published a news item in their magazine on 15.08.2005 with the headline- "ಮಾರುಕೇರಿ ಶಿಕ್ಷಕಿ ಸಿಲ್ವಿನಾಳ ಸಿಲ್ ಸಿಲ್". In the caption and in the article accused made imputation concerning the complainant, with an intention and knowledge, to harm her reputation as it contained defamatory accusation against her character. The complainant was working as a teacher and in view of the publication of defamatory article by accused Nos.1 and 2, her reputation in the eyes of others was lowered and the members of the society, including her

students, started looking at her with suspicion. Therefore, she issued a legal notice calling upon accused Nos.1 and 2 to withdraw the article and to pay the compensation. The notice was served on accused No.1. Accused No.2 has refused to receive the notice. Both of them have not complied with the demand made therein. Therefore, the private complaint was filed before the trial Court.

4. The trial Court after following the procedure took cognizance of the offence and issued summons to both the accused to appear before the Court. The accused appeared before the Court and pleaded not guilty for the offence punishable under Section 500 of IPC and claimed to be tried.

5. The complainant got examined herself as PW1 and examined PWs.2 and 3 and got marked Ex.P1 to P7 in support of her contentions. Accused Nos.1 and 2 have denied all the incriminating materials on record. They have examined themselves

as DWs.1 and 2 and got marked Ex.D1 to D13 in support of their defence. The trial Court after taking into consideration all these materials on record came to the conclusion that the words used by the accused in the article are objectionable in nature. But however felt that the whole article is not defamatory and accused Nos.1 and 2 were acquitted for the offence punishable under Section 500 of IPC. Aggrieved by the said judgment of acquittal, the complainant has preferred this appeal on various grounds.

6. Learned counsel Sri.Anant Hegde appearing for the appellant, submitted that even according to the trial Court, the publication is objectionable in law. The trial Court also observed that the publication is against a woman, working as teacher. In spite of that the accused were acquitted with out any valid reason. He submitted that when the accused have not proved that they are saved under any of the exceptions under

Section 499 of IPC, the trial Court should have convicted the accused for the above said offence.

7. Learned counsel relied on the decision in ***Chaman Lal Vs. The State of Punjab***<sup>1</sup> and ***Subramanian Swamy Vs. Union of India, Ministry of Law and Others***<sup>2</sup> in support of his contention and prayed for allowing the appeal by convicting both the accused.

8. Per contra, the learned counsel Sri.Venkatesh M. Kharvi for the respondents supporting the impugned judgment submitted that even though the publication of the article is admitted by the accused, the trial Court considered the defence taken by them and rightly acquitted the accused. He submitted that true facts were published in the article after due enquiry and similar articles were published against the complainant in other newspapers and magazines and that no defamatory words were

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<sup>1</sup> 1970(1) SCC 590

<sup>2</sup> 2016(7) SCC 221

published by the accused to attract the Penal provision of Section 500 of IPC. He further submitted that Eighth and Ninth Exceptions to Section 499 of IPC applies to the present case and under such circumstances, no offence of defamation was made out. The trial Court after properly appreciating the contentions of the parties, rightly acquitted the accused and the same do not deserve interference by this Court. Learned counsel relied on the decision of the High Court of Calcutta in **Romesh Roy Vs. The King**<sup>3</sup> in support of his case and prayed for dismissal of the appeal.

9. I have perused the materials including the trial Court records.

10. It is not in dispute that accused No.1 is the printer, publisher and editor of the weekly magazine 'Kadala Koogu' and accused No.2 is the reporter. It is also not in dispute that the article with the caption

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<sup>3</sup> AIR 1952 Calcutta 228

“ಮಾರುಕೇರಿ ಶಿಕ್ಷಕಿ ಸಿಲ್ವಿನಾಳ ಸಿಲ್ ಸಿಲ್” was published in the magazine dated 15.08.2005. According to the complainant, the caption and the contents of the article are not only objectionable, but are defamatory in nature and therefore the accused are to be convicted for the offence punishable under Section 500 of IPC.

11. On the other hand, it is the contention of accused Nos.1 and 2 that neither the headline nor the article contain defamatory statement, on the other hand, it contains true facts and therefore, the offence punishable under Section 500 of IPC is not made out. Secondly it is also contended that several other newspapers and magazines have published similar articles and under such circumstances, only the accused cannot be chosen by the complainant to prosecute them.

12. Regarding the defence taken by the accused that, similar articles were published in other

magazines, copies of which are marked as Exs.D1 to D7. In Ex.D1 the article was published under the heading "ಕೋಟಿಖಂಡ ಶಾಲಾ ಪ್ರಕರಣಕ್ಕೆ ರಾಜಕೀಯ ಹಿನ್ನೆಲೆ?". In Ex.D2, it is mentioned as "ಕೋಟಿಖಂಡ ಶಾಲಾ ಪ್ರಕರಣ ಶಿಕ್ಷಕಿಯ ಸುಳ್ಳು ಸೃಷ್ಟಿ". In Ex.D3 "ಶಿಕ್ಷಕಿಯ ಸುಳ್ಳು ಆರೋಪ: ಪ್ರಕರಣ ಅಂತ್ಯ". Ex.D4 as "ಶಾಲಾ ಶಿಕ್ಷಕಿಯ ವರ್ತನೆಗೆ ಆಕ್ಷೇಪ". Ex.D5 as "ಭಟ್ಟಳ ಕೋಟಿಖಂಡ ಶಾಲೆ ಸೆಲ್ಫಿನ್‌ಗಳ ಸುಳ್ಳು ದೂರಿನ ಲೇಲಿ!". In Ex.D6 as "ಕೋಟಿಖಂಡ ಶಾಲೆಯಲ್ಲಿ ಸಿಲ್ವಿನ್ ಭಾನಗಡಿ" and in Ex.D7 as "ಭಟ್ಟಳ-ಕಗ್ಗಂಡಾದ ಕೋಟಿಖಂಡ ಶಾಲಾ ಶಿಕ್ಷಕರ ಗುದ್ದಾಟ".

13. In support of her contention, the complainant examined herself as PW1 and stated in detail about the harm that has caused due to the publication of the article containing defamatory acquisition. During cross examination of the Complainant-PW1, some of the publications which are latter marked as Exs.D1 to D7, were referred to by the learned counsel representing the accused and the complainant has pleaded her ignorance about such

publications. This witness was cross examined at length, but nothing has been elicited from her to discard her evidence.

14. The complainant has examined PW2 who stated that he knows the complainant and the accused and he had read the article in question and stated that the said information is false. Subsequently, this witness has turned hostile and not supported the case of the prosecution.

15. PW3 examined before the trial Court also stated regarding the publication by the accused and stated that due to this publication, the reputation of the complainant is harmed and it has psychologically affected her. This witness was also cross examined at length. The tenor of cross examination of PW1 and 3 is mainly that the article in question contains true facts and that several other magazines have reported similar facts.

16. Accused No.2 was examined before the trial Court as DW1 and he stated that Exs.D1 to D7 are the publications, where news items about the complainant were published. He also states that he made sufficient enquiry before reporting the news item in question. However, he denied the suggestion that defamatory imputation is published in the newspaper, which has caused defamation.

17. Accused No.1 was examined as DW2 who admits publication of Ex.P1. But states that there were no imputations, which will harm the reputation of the complainant. He also states that for public good he published the true facts about her behavior.

18. During cross examination, this witness stated that he does not know the meaning of the word " ಸಿಲ್ ಸಿಲಾ " mentioned in the caption and states that he has given a rhyming caption to the article. He states that as per the report submitted by accused No.2, he

had published the article, but denied the suggestion that it is defamatory in nature.

19. Under Section 499 of IPC, if any imputation concerning a person is published with an intention or knowledge or having reason to believe that such imputation will harm the reputation of such person, it amounts to defamation of that person, except under Ten Exceptions contained therein.

20. Section 105 of the Indian Evidence Act deals with the burden of proving existence of circumstances bringing the case within any of the general exceptions in the IPC or within special exception or proviso containing in other parts of the same Code or in any law defining the offence, on the accused and mandates the Court to presume the absence of such circumstances.

21. The article in question published in '*Kadala Koogu*' weekly magazine is produced and marked as Ex.P1. The headline as stated above in bold letters is

found in the first page of the magazine and the article is found in the sixth and seventh pages. The article clearly refers to the complainant with her name and also with the School in which she was working. Serious accusations are made about her character and behavior in the school and outside. There is a mention about her removal from *Ananda Ashrama* Convent and she joining Vidyabharati School, thereafter appointing her as a Government Teacher and about continuation of her objectionable behavior. The headline found on the first page of the magazine in bold letters and the article in the sixth and seventh pages contain imputations referring to the character of the complainant with highly objectionable words. Moreover Accused No.1 who is examined as DW2 specifically stated that even though he does not know the meaning of the word 'sil sila', used it in bold letters, to have a rhyming caption. Under such circumstances, it is for the accused to prove that the

matter is squarely covered under any of the exceptions under Section 499 of IPC.

22. One of the defences taken by the accused is that other publishers have published similar articles in their magazines, which are marked at Exs.D1 to D7. The headline in the front page of the magazine published by these accused in Ex.P1 is concerning the character of the complainant and *prima facie* it is defamatory in nature. More so when the complainant is admittedly a teacher in a primary school, teaching hundreds of students, by no stretch of imagination the article can be said to be not defamatory. The complainant who is examined as PW1 before the trial Court specifically stated that in view of the publication in question, her reputation in the eyes of others has affected and the publication has harmed her personality. None of these magazines i.e. Exs.D1 to D7, have used such objectionable and defamatory wordings to make character assassination and defame

the complainant. Moreover the publication of similar article by others is not an exception available to the accused under Section 499 of IPC.

23. Learned counsel for the respondents contended that Eighth and Ninth Exceptions to Section 499 of IPC apply to the facts of the case and therefore the publication does not amount to defamation.

24. Eighth and Ninth Exceptions to Section 499 of IPC reads as under:

***"Eighth Exception:*** *Accusation preferred in good faith to authorized person.*

*It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.*

***"Ninth Exception:*** *Imputation made in good faith by person for protection of his or other's interests.*

*It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good."*

*(Emphasis supplied)*

25. Bare reading of Eighth Exception refers to such accusation made to the authorized person. But in the present case, since the article was published in the magazine, the said exception cannot be made applicable.

26. In Ramesh Roy Vs. The King (supra), relied on by the learned counsel for the accused, the High Court of Calcutta dealt with eighth exception to Section 499 of IPC and held that the accused need not prove the allegations made by him to be true. In the said case, a representation was submitted to the Deputy Commissioner of Police making allegations against the complainant, that he is leading immoral life. Under such circumstances, the High Court held that when such accusation was made in good faith, while filing representation to the authorized persons, it falls squarely under eighth exception to Section 499 of IPC. But in the present case, the contention taken

by the accused does not fall under eighth exception, since the article in question was published in a magazine but not a representation submitted to an authorized person.

27. To attract the Ninth Exception to Sec. 499 IPC, the imputation must be made in good faith for protection of his or other's interest. It is not explained by the accused as to how their interest or interest of others was involved in the case and how they have protected it by publishing the news item.

28. The position of law with regard to defamation is very well settled. If once publication is proved to be defamatory in nature, harming the reputation of the complainant, the burden shifts on the accused to claim exemption under any of the exceptions under Section 499 of IPC. Even when the accused takes a defence that publication containing the imputation was a true fact, he is required to prove that the said publication was for the public good, in

order to attract the first exception. If on the other hand accused seeks exemption under the ninth exception, he has to prove that the imputation was made in good faith for his protection or of any other person. Moreover the person who makes such imputation and his position will determine the standard of care and caution he has to take, while making such publication.

29. When we speak of right to life, it definitely includes the life with human dignity and reputation. This right of a citizen is very precious and recognized as fundamental under Article 21 of the Constitution of India. It cannot be invaded under the garb of freedom of speech and expression. Even though the freedom of speech and expression is recognized as a right under Article 19 of the Constitution of India, it is not an absolute right but is subject to reasonable restrictions.

30. If the accused prefers to seek shelter under the first exception to Section 499 of IPC, he has to prove that it was imputation of truth, which was published for public good. Imputation of truth by itself is not a defence available to the accused, when publication of imputation was not for public good. On the other hand if he invokes ninth exception, it is for him to prove that the imputation was made in good faith for protection of his own or other's interests. Public good referred to in the first exception or good faith referred to in the ninth exception to Section 499 IPC, are definitely the questions of fact, which have to be gathered from the facts and circumstances of each case and to be established by the accused.

31. In Chaman Lal Vs.The State of Punjab (supra) the Hon'ble Supreme Court considered Exceptions 1, 8 and 9 under Section 499 of IPC and held in Paragraphs 15 to 17 as under:

*"15. In order to come within the First Exception to Section 499 of the Indian Penal Code it has to*

be established that what has been imputed concerning the respondent is true and the publication of the imputation is for the public good. The onus of proving these two ingredients, namely, truth of the imputation and the publication of the imputation for the public good is on the appellant. xxxx.

16. The Eight Exception to Section 499 of the Indian Penal Code indicates that accusation in good faith against the person to any of those who have lawful authority over that person is not defamation. xxxx

17. The Ninth Exception states that if the imputation is made in good faith for the protection of the person making it or for another person or for the public good it is not defamation. There is no evidence whatever to support the plea that the imputation was for the public good. The accusation was not also made in good faith. Good faith requires care and caution and prudence in the background of context and circumstances. The position of the persons making the imputation will regulate the standard of care and caution. Under the Eighth Exception statement is made by the person to another who has authority to deal with the subject-matter of the complaint whereas the Ninth Exception deals with the statement for the protection of the interest of the person making it. Interest of the

person has to be real and legitimate when communication is made in protection of the interest of the person making it."

(Emphasis supplied)

32. In Subramanian Swamy Vs. Union of India, Ministry of Law and Others (supra) the Hon'ble Apex Court dealt with the subject in detail and in paragraphs 119, 132, 133, 135, 168, 179, 184, 185, 191 and 209 held as under:

"119. xxxx We are disposed to think that the right of expression with regard to fictional characters through any medium relating to creation of a fiction would be somewhat dissimilar for it may not have reference to an individual or a personality. Right of expression in such cases is different, and be guided by provisions of any enactment subject to constitutional scrutiny. The right of freedom of expression in a poem, play or a novel pertaining to fictional characters stand on a different footing than defamation as the latter directly concerns the living or the legal heirs of the dead and most importantly, having a known identity. A person in reality is defamed contrary to a "fictional character" being spoken of by another character or through any other mode of narrative. Liberty

of freedom in that sphere is fundamentally different than the arena of defamation. xxx

120 to 131. xxxx

132. xxxx Right to life includes the right to life with human dignity and all that goes along with it, namely, the bare necessities of life such as nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forums, freely moving about and mixing and commingling with fellow human beings and, therefore, it is a precious human right which forms the arc of all other rights. xxxx

133. xxxx Right to honour, dignity and reputation are the basic constituents of right under Article 21. Submission of the learned counsel for the petitioners is that reputation as an aspect of Article 21 is always available against the highhanded action of the State. To state that such right can be impinged and remains unprotected inter se private disputes pertaining to reputation would not be correct. Neither this right be overridden and blotched notwithstanding malice, vile and venal attack to tarnish and destroy the reputation of another by stating that curbs and puts unreasonable restriction on the freedom of speech and expression. There is no gainsaying that individual rights form the fundamental fulcrum of collective harmony and interest of a society. There can be no denial of

the fact that the right to freedom of speech and expression is absolutely sacrosanct. Simultaneously, right to life as is understood in the expansive horizon of Article 21 has its own significance.xxxx

134. xxxx

135. xxxx Acceptable restraint subserves the social interest. In the case at hand, it is to be seen whether right to freedom and speech and expression can be allowed so much room that even reputation of an individual which is a constituent of Article 21 would have no entry into that area. To put differently, in the name of freedom of speech and expression, should one be allowed to mar the other's reputation as is understood within the ambit of defamation as defined in criminal law.

136. to 167. xxxx

168. xxxx To constitute the offence, there has to be imputation and it must have made in the manner as provided in the provision with the intention of causing harm or having reason to believe that such imputation will harm the reputation of the person about whom it is made. Causing harm to the reputation of a person is the basis on which the offence is founded and mens rea is a condition precedent to constitute the said offence. The complainant has to show that the accused had intended or known or had reason to

*believe that the imputation made by him would harm the reputation of the complainant. The criminal offence emphasizes on the intention or harm. Section 44 of IPC defines "injury". It denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. Thus, the word "injury" encapsulates harm caused to the reputation of any person. It also takes into account the harm caused to a person's body and mind. Section 499 provides for harm caused to the reputation of a person, that is, the complainant.*

*169 to 178. xxxx*

*179. xxxx The First Exception stipulates that it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. "Public good" has to be treated to be a fact. In Chaman Lal v. State of Punjab, (1970) 1 SCC 590, the Court has held that in order to come within the First Exception to Section 499 of the Indian Penal Code it has to be established that what has been imputed concerning the respondent is true and the publication of the imputation is for the public good. The onus of proving these two ingredients, namely, truth of the imputation and the publication of the imputation for the public good, is on the accused.*

180. to 183. xxxx

184. A three-Judge Bench in Harbhajan Singh v. State of Punjab and another, AIR 1966 SC 97 has opined that where the accused invokes Ninth Exception to Section 499 IPC, good faith and public good are both to be satisfied and the failure of the appellant to prove good faith would exclude the application of Ninth Exception in favour of the accused even if requirement of public good is satisfied. The Court has referred to Section 52 IPC which defines "good faith" that requires the element of honesty. It is necessary to note here that the three-Judge Bench has drawn a distinction between the First Exception and the Ninth Exception to opine that the proof of truth which is one of the ingredients of the First Exception is not an ingredient of the Ninth Exception and what the Ninth Exception requires an accused person to prove is that he made the statement in good faith. Proceeding further, the Court has stated that in dealing with the claim of the accused under the Ninth Exception, it is not necessary and, in a way, immaterial, to consider whether he has strictly proved the truth of the allegations made by him.

185. In Sukra Mahto v. Basdeo Kumar Mahto and another, 1971 (1) SCC 885 the Court has opined that the ingredients of Ninth Exception are first that the imputation must be

made in good faith; secondly, the imputation must be protection of the interest of the person making it or of any other person or for the public good. The Court further opined that good faith and public good are questions of fact and emphasis has been laid on making enquiry in good faith and due care and attention for making the imputation.

186. to 190. xxxx

191. The detailed discussion made hereinabove do clearly reveal that neither the main provision nor the Explanation nor the Exceptions remotely indicate any vagueness. It is submitted that the Exceptions make the offence more rigorous and thereby making the concept of criminal defamation extremely unreasonable. The criticism advanced pertain to truth being not a defence, and unnecessary stress on 'public good'. The counter argument is that if a truthful statement is not made for any kind of public good but only to malign a person, it is a correct principle in law that the statement or writing can amount to defamation. Dr. Singhvi, learned senior counsel for some of the respondents has given certain examples. The examples pertain to an imputation that a person is an alcoholic; an imputation that two family members are involved in consensual incest; an imputation that a person is impotent; a statement is made in public that a

*particular person suffers from AIDS; an imputation that a person is a victim of rape; and an imputation that the child of a married couple is not fathered by the husband but born out of an affair with another man. We have set out the examples cited by the learned senior counsel only to show that there can be occasions or situations where truth may not be sole defence. And that is why the provision has given emphasis on public good. Needless to say, what is public good is a question of fact depending on the facts and circumstances of the case.*

192. to 208. xxxx

209. xxxx *It is settled position of law that those who plead Exception must prove it. It has been laid down in M.A.Rumugam <sup>4</sup> that for the purpose of bringing any case within the purview of the Eighth and the Ninth Exceptions appended to Section 499 of IPC, it would be necessary for the person who pleads the Exception to prove it. He has to prove good faith for the purpose of protection of the interests of the person making it or any other person or for the public good. The said proposition would definitely apply to any Exception who wants to have the benefit of the same. xxx"*

*(Emphasis supplied)*

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<sup>4</sup> M.A.Rumugam v. Kittu, (2009) 1 SCC 101

33. Thus the position of law on the subject is very well settled by these verdicts.

34. On going through the publication and also the evidence lead by both the parties, in the light of the settled position of law, the contention of the learned counsel for the accused that the publication is covered under any of the Exceptions, cannot be accepted. I do not find either the public good or good faith in the act of the accused. When the publication is not covered under any of the Exceptions, after the same is held as an imputation that has harmed the reputation of the complainant, commission of the offence punishable under Section 500 of IPC is complete. The conduct of the Accused in using objectionable and defamatory words only to have rhyming caption and the article is not at all acceptable and therefore both the accused are liable to be convicted.

35. The law on interfering with the judgment of acquittal is well settled. It is only in exceptional cases where there are compelling circumstances and the judgment in the appeal is found to be perverse, the appellate Court can interfere with the order of acquittal. I am conscious of the fact that the appellate Court should bear in mind the presumption of innocence of the accused and further the acquittal of the accused by the trial Court supports the presumption of innocence and interference in a routine manner where other view is possible, should be avoided, unless there are good reasons for interference.

36. The discussions held above show that the facts and circumstances of case do not even remotely suggest that the accused were either innocent or have acted in good faith or for public good. The trial Court has not taken into consideration the settled position of law on defamation and casually proceeded to acquit

the accused without assigning any valid reasons. The impugned judgment is not only illogical but it is also perverse. Under such circumstances, allowing the impugned judgment of acquittal to remain will definitely result in miscarriage of justice. Therefore the same is liable to be set aside and both the accused are to be convicted for the offence punishable under Section 500 of IPC.

37. The publication in question is dated 26.08.2008. The impugned judgment of acquittal is dated 05.01.2011. Considering the length of time which has already lapsed, I am of the opinion that some leniency may be shown in sentencing the accused and at the same time, the complainant who is the victim of defamation is required to be compensated, as provided under Section 357 of Cr.P.C. Learned advocate for the respondents/ accused Nos.1 and 2 requested to sentence the accused only with fine and not with imprisonment for

any period. Considering such submission, I proceed to pass the following:

ORDER

Appeal is allowed.

Impugned judgment of acquittal dated 05.01.2011 passed by the Principal Civil Judge (Jr.Dn.) and JMFC, Bhatkal in C.C.No.1719/2005 is set aside.

Respondents/Accused Nos.1 and 2 are convicted for the offence punishable under Section 500 of IPC and they are sentenced to pay fine of Rs.30,000/- each, to be deposited within 30 days from the date of receipt of the judgment. In default to pay fine, accused shall undergo simple for a period of one month.

From out of the fine amount to be deposited by accused Nos.1 and 2, an amount of Rs.50,000/- is ordered to be paid to the complainant as compensation under Section 357 of Cr.P.C.

Send back the trial Court records, with a copy of the Judgment.

**SD/-  
JUDGE**

KGK/vmb

Not An Official Copy