

B.V. Ram Kumar vs State Of Telangana on 10 February, 2025

Author: Sanjay Karol

Bench: Sanjay Karol

2025 INSC 194

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Crl.) No(s). 7887 of 2024)

B.V. RAM KUMAR

....APPELLANT(S)

VERSUS

STATE OF TELANGANA AND ANOTHER

....RESPONDENT(S)

JUDGMENT

Mehta, J.

1. Heard.

2. Leave granted.

3. The instant appeal by special leave preferred by the appellant takes exception to the judgment dated 3rd May, 2024, passed by the High Court of Judicature for the State of Telangana at Hyderabad¹ in Criminal Petition No. 11653 of 2022, whereby the learned Single Judge dismissed the petition under Section 482 of 1 Hereinafter, referred to as the “High Court”. Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 the Code of Criminal Procedure, 1973² preferred by the appellant, seeking quashment of the chargesheet in Case Crime No. 1771 of 2022, submitted against the appellant for the offences punishable under Sections 269, 270 and 504 of the Indian Penal Code, 1860³ before the Court of learned XI Additional Chief Metropolitan Magistrate, Hyderabad⁴.

Brief facts: -

4. Respondent No. 2(complainant) was working as an Assistant Professor, Pediatrics in National Institute for Empowerment of Persons with Intellectual Disabilities, Secunderabad⁵. On 2nd February, 2022, the complainant was called by the

appellant, through his attender, to come to his chamber. During the time, appellant was discharging his duties as Officiating Director of the Institute(workplace). It is alleged that no sooner the complainant entered the chamber of the appellant, he started addressing her in a high-pitched voice reprimanding her for having filed complaints against him to the higher authority. The complainant immediately protested and apprised the appellant that as she had just

2 For short, 'CrPC'.

3 For short 'IPC'.

4 Hereinafter, referred to as "trial Court".

5 For short 'Institute(workplace)'.

Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 recovered from Covid-19 virus and was continuously facing various medical issues, he must refrain from raising his voice at her. Immediately thereafter, her hands began to tremble and she started sweating profusely. She left the chamber of the appellant stating that she would submit a written reply in this regard.

5. The complainant filed a complaint against the appellant on the same day, pursuant to which an FIR⁶ came to be registered on 5th February, 2022 at Police Station, Bowenpalli, Hyderabad for the offences punishable under Sections 269, 270, 504 and 354, IPC. Investigation was commenced and statements of various witnesses were recorded. The Investigating Officer submitted a chargesheet dated 27th September, 2022, against the appellant in the Court concerned for the offences punishable under Sections 269, 270 and 504, IPC. It was primarily alleged in the chargesheet⁷ that the appellant failed to provide and maintain adequate PPE kits and gloves in the Institute(workplace), which posed a great risk of spreading infectious diseases such as Covid-19. The trial Court took cognizance of the above offences and summoned the appellant. Aggrieved by the chargesheet and the cognizance taken Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 by the trial Court, the appellant preferred a criminal petition⁸ under Section 482, CrPC before the High Court, seeking quashment of proceedings sought to be taken against him in Case Crime No. 1771 of 2022.

6. The High Court, while dismissing the above criminal petition, held that there was no merit in the quashing petition filed by the appellant. It further opined that as the allegations against appellant were serious in nature, therefore, the true facts of the case required to be elicited and proved during the trial before the trial Court. Accordingly, the quashing petition came to be dismissed vide order dated 3rd May, 2024, which is assailed in the present appeal by special leave.

Submissions on behalf of the appellant: -

7. Learned counsel for the appellant submitted that the proceedings of the criminal case registered against him tantamount to sheer abuse of the process of law, being initiated maliciously, with an ulterior motive and a mala fide intent. To buttress his submissions, learned Counsel stated that

similar complaints were also made by the complainant to the concerned 8 Criminal Petition No. 11653 of 2022.

Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 Ministry, which had sought reply from the appellant. As on date, all these complaints have been closed being satisfied with the reply of the appellant.

8. Learned counsel further contended that even if the allegations in the FIR and chargesheet are accepted to be true and taken on their face value, they lack the basic ingredients to constitute the offences set out therein. These allegations do not make out a prima facie case against the appellant. The alleged act of speaking in a brusque manner by the appellant, even if accepted on the face value, was without any mens rea as he was only making a query from the complainant about her lackadaisical and lazy approach towards the discharge of duties in the Institute(workplace). Numerous complaints were made on behalf of the students and their parents against the complainant for not being available during the duty hours. These complaints were pending with the appellant while he was discharging his duties as Officiating Director of the Institute(workplace) and the query which the appellant made from the complainant in his chamber was in this regard only, and was without any mala fide intent. He also urged that the chargesheet filed against the appellant lacks the fundamental facts and material constituting the necessary Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 ingredients of the offences for which the appellant has been summoned.

On these grounds, learned counsel for the appellant urged this Court to accept the appeal, set aside the impugned judgment and quash the proceedings of the criminal case pending against the appellant in the trial Court pursuant to the impugned chargesheet.

Submissions on behalf of the respondents: -

9. Per contra, learned counsel for the complainant contended that the High Court was justified in dismissing the quashing petition filed by the appellant as it was sans merit. The contents of the FIR and the chargesheet make out a prima facie case of a continuous harassment of the complainant by the appellant. He was in the habit of maltreating the complainant before her clients and other office staff. To buttress this contention, learned Counsel has placed reliance on the deposition of witnesses examined by the police during investigation who have supported the version of the complainant with respect to the verbal altercation that had taken place on 2nd February, 2022, between the complainant and appellant.

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10. Learned counsel further contended that the act/omissions on behalf of the appellant as the Director, in not maintaining and providing adequate supplies of PPE kits, masks and sanitizers, make out a prima facie case for the offences under which he has been charge-sheeted by the police.

On these grounds, learned counsel for the complainant implored this Court to refrain from interfering with the impugned judgment and dismiss the appeal.

11. The learned standing counsel appearing for the State of Telangana also adopted the submissions of the complainant's counsel and prayed for dismissal of the appeal. Analysis and Conclusion:

12. We have given our thoughtful consideration to the arguments advanced at bar and have gone through the impugned judgment and the material placed on record.

13. The case of the complainant is primarily based on the allegation that the appellant used to unjustifiedly scold and reprimand her in front of the other employees of the Institute(workplace). She lodged an FIR for the offences punishable under Sections 269, 270, 504 and 354, IPC against the appellant, Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 which led to the submission of the chargesheet dated 27th September, 2022, for the offences under Sections 269, 270 and 504, IPC. However, section 354 of IPC, which was incorporated in the FIR, was deleted from the chargesheet on the ground that it became clear during the investigation that there was no attempt to outrage the modesty of the complainant.

14. The position of law is well settled by catena of judgments of this Court that in order to entertain a challenge to the FIR, chargesheet or an order taking cognizance, all that has to be seen is, whether from a bare reading of the chargesheet, the ingredients of the sections charged therein are being prima facie made out or not. Reference in this regard may be made to the judgment of this Court in State of Haryana v. Bhajan Lal,⁹ wherein it was held that:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1992 Supp (1) SCC 335.

Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code. (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected

in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party. (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.” (emphasis supplied) Thus, it is trite that the constitutional courts are wholly competent to exercise their extraordinary power to quash the criminal proceedings to prevent abuse of the process of the Court or otherwise to secure the ends of the justice if the allegations in Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 the FIR or complaint neither disclose the commission of any offence nor make out a prima facie case against the accused.

15. In order to ascertain, whether appellant in the present case has committed any offence punishable under Sections 269, 370 and 504, IPC, it is necessary to reproduce the allegations levelled in the chargesheet filed against the appellant, which read thus:-

“On examination they all stated that the accused Mr. B.V. Ram Kumar is of the said firm and he will strict with his official works and there was some among them regarding Project Work since last few days. On 02.02.2022 at about some argument ensued among the LW-1 and accused. The accused warned why she is not present in the allotment room; in turn she replied to give the instructions in written. In this regard there were loud shouting among Director Mr. B.V. Ram Kumar and LW-1 Mrs. Mary Anurupa and the Smt. Jyothi LW-7 who is the nurse had checked the BP of Mrs. Mary Anurupa and Mr. B.V. Ram Kumar.

Further it came to know that due to inadequate supply of PPE Kits and gloves to working staff, the staff may be effected covid and due to the act of the accused there likely to spread infection diseases dangerous to life and also provoke breach of peace in the institution.

... The facts and evidence collected during the course of investigation it is elicited that the accused is the director of NIMH. The accused Harassing the LW-1 mentally in her working place, since from October, 2021 on one or other pretext. On 02.02.2022 at 23.00 hours when she was seeing (sic) her clients at CDEIC unit in NIEPID the accused sends his attender and called the LW-1 to his chamber and asked her whether she knows about conduct rules when she gave complaint against him to higher authority and talking with her in loud voice and shouted on her as she submitted (sic) grievance related on him to her higher authorities on his behaviour. The LW-1 suffered with covid and facing a lot of Medical Issues and she should not shout as her hands shivering and sweating and also breathing difficulty. The accused used to call her to his chamber and scolding by Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 interfering in internal complaints. She was sincerely affected with covid due to inadequate supply of PPE Kits and gloves to working staff in early intervention and she was in ICU and rejoined her duties. She had to face his shouting and even during her medical leave he send memo to reply for no mistake from her side. Due to the act off the accused there likely to spread infection diseases dangerous to life and also provoke breach of peace in the institution.

Thus, the acts of the accused BV Ram (sic) Kumar has committed an offence which liable to be punished U/sec. 269, 270 and 504 IPC.” (emphasis supplied)

16. On a threadbare reading of the chargesheet, we find that the highest allegation levelled against the appellant is that he had been scolding the complainant in the Institute(workplace) and thereby causing mental harassment to her since October, 2021. On 2nd February, 2022, at 11 o'clock in the night, while the complainant was attending to her clients, the appellant called her to his chamber. When the complainant entered the chamber of the appellant, he raised his voice and asked her whether she knew about the conduct rules before having submitted her grievance related to him to the higher authorities. The chargesheet also narrates that the complainant was affected by Covid-19 because of the inadequate supply of PPE kits and gloves maintained by the appellant as the Director of the Institute(workplace).

17. From the bare perusal of the chargesheet and documents relied therein, apart from the fact that the allegations are purely Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 conjectural, by no stretch of imagination they can be considered sufficient to constitute the ingredients of the offences under Sections 269 and 270, IPC. The Investigating Officer seems to have been unduly influenced by the sensitive situation prevailing during Covid-19 and relied upon the bald allegations of the complainant, who alleged that the appellant did not provide and maintain an adequate supply of PPE kits and gloves for the working staff at the Institute(workplace). The allegation with respect to failure to maintain adequate supply of PPE kits and gloves stands refuted by the statements of witnesses, namely Smt. K. Nagarani dated 8th February, 2022, working as Hindi Translator and Sh. Bharat Naik dated 9th February, 2022, working as Data Entry Operator at the Institute(workplace), who have categorically stated during the investigation that there was no shortage of supply of PPE kits, masks or sanitizers at the Institute(workplace).

18. Admittedly, the appellant had called the complainant to his chambers. When she entered, the appellant is alleged to have raised his voice to ask her whether she had made sure about the conduct rules before having submitted a complaint against him to the higher authorities. We thus, fail to see how the Investigating Officer was able to reach a conclusion that a simple verbal spat Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 which took place between the appellant and complainant in the chamber of the appellant would make the former liable under Section 504, IPC. At best, what can be inferred from the allegations is that the appellant spoke to the complainant in a loud voice and a belligerent tenor.

19. For appreciating the necessary ingredients required to substantiate a charge under Section 504, IPC, a reference in this regard may be made to the judgment of this Court in *Fiona Shrikhande v. State of Maharashtra*,¹⁰ wherein the Court discussed the essential ingredients of Section 504, IPC. The Court held as follows: -

“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 (2013) 14 SCC 44.

Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 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.” (emphasis supplied)

20. Thus, upon reading the complaint as a whole, if the Magistrate comes to a conclusion, *prima facie*, that there has been an intentional insult made by the accused to the complainant so as to provoke the latter to break the public peace or to commit any other offence, then only the act

complained of would fall within the ambit of Section 504, IPC. The law does not mandate that the complainant should verbatim reproduce each word or words capable of provoking him/her to commit breach of peace or any other offence. The background facts, circumstances, the occasion, the manner in which the offending words are used, the person 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.

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21. Further, this Court in the case of Mohammad Wajid v. State of U.P.,¹¹ while discussing Section 504, IPC, propounded the test for considering the circumstances wherein, an abusive language takes the form and shape of an intentional insult and held thus:-

“28. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

29. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the 11 2023 SCC Online SC 951.

Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely

uses abusive language against the complainant.” (emphasis supplied)

22. Needless to say, that mere abuse, discourtesy, rudeness or insolence does not amount to an intentional insult within the meaning of Section 504, IPC. Furthermore, it would be immaterial that the person who has been insulted and provoked did not actually break the peace or commit any offence.

23. Section 504, IPC consists of two parts. Firstly, the actus reus- being the intentional insult which gives rise to the provocation. Secondly, the mens rea, i.e., the intention or knowledge on the part of the accused that such intentional provocation is likely to cause the person insulted to break public peace or commit any other offence. The animus nocendi in Section 504, IPC is that the accused should ‘intentionally insult’ the other person with the intention or knowledge that the provocation caused by such insult is likely to result in the commission of breach of public peace or any other offence by the person who has been so insulted. The offence is said to be complete once the accused person makes ‘intentional insult’ with the aforesaid mens rea. Hence, intention or knowledge on the part of accused person that his actions of making ‘intentional Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 insult’ have the potential to provoke the person insulted is sine qua non for the commission of the offence under Section 504, IPC.

24. The natural corollary of the above discussion is that if the accused does not intend to give provocation, the offence is not made out. An insult without an ‘intention to insult’ is not punishable under Section 504, IPC. Further, ‘intentional insult’ must be of such a degree that it has the potential to provoke a reasonable person to break the public peace or to commit any other offence.

25. It is trite that whether the person provoked further commits an illegal act or not is immaterial to draw the conclusion of culpability under Section 504, IPC. The ‘intentional insult’ and provocation must be so proximate and close that the accused has either the intention or the knowledge that the intentional insult made by him is likely to cause the provoked person to break public peace or commit some other offence. However, what would be the nature of ‘intentional insult’ causing provocation, to draw culpability under Section 504, IPC would depend upon the facts and circumstances of each case. The test to be applied to determine if the intentional insult made by the accused is sufficient to cause provocation is that of a reasonable person, i.e., Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 if the insult is sufficient to provoke any reasonable person to break peace or commit any other offence, only then the accused will be liable for the offence under Section 504, IPC.

26. In the case at hand, all that the chargesheet discloses is that the appellant and the complainant had a verbal altercation which became unbearable for the complainant owing to her medical conditions. At the time of the incident, the appellant was discharging his functions as the Director of the Institute(workplace) and he was therefore, entrusted with the administration and management of the entire Institute(workplace) and in addition, he was required to discharge his own professional obligations as a medical professional to both the Institute(workplace) and the society at large. It is, therefore, a reasonable expectation on the part of a person, who caters to the affairs at the helm, that his juniors should attend to the professional affairs of the Institute(workplace) with utmost sincerity

and dedication. We are equally cognizant of the circumstances that existed during the times of Covid-19 pandemic and the pressure on the medical professionals was multiplied manifold, therefore, in our view it was reasonable for the appellant to contemplate similar expectations from his juniors/associates. Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024

27. Furthermore, it is also pertinent to note the fact that complaints with respect to indiscipline in the Institute(workplace) were already pending with the office of the Director of the Institute(workplace). In addition, the appellant while discharging his duties as Director had received numerous complaints from the parents of students against the complainant about negligence in the discharge of her duties. In this backdrop, there was nothing out of ordinary for the person in charge of the Institution(workplace) to call such subordinate to the chambers and reprimand them in order to restore discipline in the Institute(workplace). The intention behind this was simply to control the perceived indiscipline of the subordinates who were alleged to be shirking from the performance of their duties and were displaying lethargic, lackadaisical and laid-back approach towards the profession. If such a behaviour is not checked by superior officers, who have been entrusted with the task of administration, it could lead to become a premium for other employees to follow suit.

28. In the facts and circumstances of the present case, appellant's act of reprimanding the complainant cannot by any stretch of imagination be treated to be an 'intentional insult' meted Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 out to the complainant so as to provoke her to commit breach of peace or any other offence. If the interpretation advanced from the side of prosecution and the complainant is accepted, it may lead to gross misuse of liberty in workplaces. Therefore, in our opinion, senior's admonition cannot be reasonably attributed to mean an 'intentional insult with the intent to provoke' within the means of Section 504, IPC, provided that the admonition relates to the matters incidental to the workplace covering discipline and the discharge of duties therein.

29. From a perusal of the impugned chargesheet and the statements recorded by the Investigating Officer during the course of investigation, it is discernible that the appellant has been roped in the present criminal proceedings on account of his strict demeanour and the tendency to maintain discipline which is reasonably expected of individuals who serve a noble vocation of a medical profession while also serving as the head of the Institution during the difficult time of Covid-19 pandemic. Therefore, we are of the firm view that allowing criminal charges to be pressed against the individual being the Director of the Institute(workplace) for trying to maintain discipline may lead to disastrous consequences crippling the entire disciplinary atmosphere Criminal Appeal @ SLP(Crl.) No(s). 7887 of 2024 required in the workplace. We do not find existence of the necessary ingredients constituting the offences applied in the chargesheet so as to allow further prosecution of the appellant and hence, it is a fit case to quash the criminal proceedings initiated against the appellant.

30. As a consequence of the discussion made hereinabove, the impugned judgment dated 3rd May, 2024, passed by the High Court for the State of Telangana at Hyderabad is quashed and set aside. Resultantly, the impugned chargesheet being CC No. 1771 of 2022 for offences punishable under Sections 269, 270 and 504, IPC filed before the Court of learned XI Additional Chief Metropolitan

Magistrate at Hyderabad and all the proceedings sought to be taken thereunder against the appellant are hereby quashed.

31. The appeal is allowed accordingly.

32. Pending application(s), if any, shall stand disposed of.

.....J. (SANJAY KAROL)J. (SANDEEP MEHTA) New Delhi;

February 10, 2025.