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**IN THE HIGH COURT OF BOMBAY AT GOA  
CRIMINAL WRIT PETITION NO. 165 OF 2018**

Abhijit Dessai, s/o. Satyavan Dessai, aged 38  
years, Indian National, r/o. H. No. 17/1, ... Petitioner  
Nunden, Netravali, Goa, 403 704.

*V e r s u s*

1. Rakhi Prabhudessai Naik, major of age,  
Emerald Tower, 5<sup>th</sup> Floor, Above Pudhari  
News Paper, St. Inez, Panaji, Goa, 403001.
2. Officer in Charge of Crime Branch, Goa  
Police, Ribandar, Goa 403005
3. State, Through Public Prosecutor, High  
Court of Bombay at Goa, Altinho,m Panaji, ...Respondents  
Goa.

**Mr. Carlos Ferreira, Senior Advocate** *with Mr. Nehal  
Govekar, Advocate for the Petitioner.*

**Mr. S. G. Bhobe, Public Prosecutor** *for the Respondent nos.  
2 and 3.*

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**CORAM: M. S. KARNIK &  
VALMIKI MENEZES, JJ**

**RESERVED ON : 21<sup>st</sup> October 2024  
PRONOUNCED ON: 24<sup>th</sup> October, 2024**

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**ORDER** *(Per M. S. Karnik, J.)*

1. Heard Mr. Ferreira, learned Senior Advocate for the petitioner.  
None for the respondent no.1. Mr. Bhobe, learned Public Prosecutor,  
appears for respondent nos. 2 and 3.

2. Our attention is invited to the order dated 10.06.2019 passed by this Court. The relevant portion of the order reads thus :

“1. Heard Mr. Ferreira, learned Counsel for the Petitioner, Mr. Naik, learned Counsel for Respondent No.1 and Mr. Rivankar, learned Public Prosecutor for Respondents No.2 and 3.

2. The Petition seeks to challenge an FIR registered by Respondent No.2-Crime Branch, Goa Police, against the Petitioner under Sections 500 and 509 of Indian Penal Code (IPC). The offences disclosed in the FIR are said to consist of a Facebook post, calling Respondent No.1 and her husband “Bunty and Bubli”, which is a phrase synonym with fraud, derived from a Bollywood movie of the same name. Whereas calling or suggesting someone to be a fraudster may amount to defamation, it is *prima facie* inconceivable that it can be termed as an insult to the modesty of Respondent No.1 within the meaning of Section 509 of IPC. The Petitioner seeks to quash the FIR not only on the ground that he is not in any way responsible for the particular post appearing on the Facebook (he claims to have simply posted a 'like'), but that the FIR and the material forming part thereof do not even *prima facie* disclose any offence under Section 509 of IPC.

3. *Prima facie*, the offence described in Section

509 of IPC refers to any word, gesture or act intended to insult the modesty of a woman. The modesty of a woman, though not defined in the IPC, by all accounts, reflects womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct; reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions. (from Oxford English Dictionary (1933 Edn.).

4. The essence of a woman's modesty, as observed by the Supreme Court in **Raju Pandurang Mahale vs. State of Maharashtra and another, AIR 2004 SC 1677**, is her sex; it is a virtue which attaches to a female owing to her sex. Thus, to constitute an insult to her modesty, the word, gesture or act must be such as indecorous, unchaste, improper or coarse vis-a-vis her sex particularly and not concerning her character or reputation as a person generally. There is nothing in the allegations referred to in the FIR to suggest that that there is any verbal attack or gesture concerning the sex of Respondent No.1. There is, in other words, no question, prima facie, of any defiling of her modesty.

5. Learned Counsel for Respondent No.1 relies on the case of **M.M. Haries vs. State of Kerala 2005 Cri. L.J. 3314** and the case of **Raju Pandurang Mahale** (supra). If anything,

these cases are against Respondent No.1. In *M.M. Haries (supra)*, anonymous letters were sent to a lady Police Officer working as District Superintendent of Police, using vulgar and obscene language, intending to insult her modesty. The Kerala High Court observed that a woman must be protected not only from physical aggressions made in the course of outraging her modesty, but also from various other acts which may not involve even a touch. A mere word, a wink or a touch or even a look would suffice to insult the modesty of a woman. Physical advances may not be always necessary to construe an offence under Section 509 of IPC. These observations have no bearing on the controversy in the present case.

6. The case of **Raju Pandurang Mahale** (*supra*) concerns the prosecutrix being forced to remain in the house of the accused along with the other accused, both of whom had assaulted the prosecutrix and forced her to consume liquor. She was raped after she experienced giddiness and lost her balance. The observations of the Supreme Court concerning outraging of female modesty, which are relied upon by learned Counsel for Respondent No.1, are in the context of these facts and have no bearing whatsoever to the alleged words used in the present case.

7. A case accordingly is made out for Rule, and

interim relief as regards the offence registered under Section 509 of IPC.

8. Hence Rule. Respective Counsel for the Respondents waive notice.

9. Pending hearing and final disposal of the Petition, further investigations in regard to FIR No. 80/2018 dated 19th July, 2018 under Section 509 of IPC registered by Respondent No.2 are stayed.”

3. When the matter had come up for final hearing, the learned Counsel Mr. Dinesh Eknath Naik, who was appearing for the respondent no.1, requested for withdrawal of his appearance and sought a discharge. He was discharged from appearing. A fresh notice was issued to the respondent no.1 through PI of Sanguem Police Station. As per the report of the PI, the respondent no.1 is duly served. There is no appearance on behalf of the respondent no.1.

4. We have heard Mr. Ferreira, learned Senior Advocate for the petitioner and Mr. Bhobe, learned Public Prosecutor for the respondent nos. 2 and 3. Mr. Bhobe argued in support of the FIR and the chargesheet.

5. Having perused the interim order passed by this Court, we are satisfied that this petition can be disposed of for the reasons

mentioned in the aforesaid Order earlier passed by this Court, as the respondent no.1, though duly served is not appearing to contest this Petition. In the facts of the present case, with the passage of time, we find it appropriate to allow this Petition.

6. The petition is accordingly allowed in terms of prayer clause (a), which reads thus :

“(a) Issue writ, order or direction to quash FIR No. 80/2018 dated 19.07.2018 under Section 500 and 509 IPC registered by Respondent no.2.”

7. Consequently, the chargesheet is quashed and set aside. Disposed of.

**VALMIKI MENEZES, J**

**M. S. KARNIK, J**