

SCC NO.23370/2021
Sanket Vs. Gayatri & Anr.

ORDER BELOW EXH.1
(Dt. 13/03/2024)

1] Perused the complaint, verification of complainant on oath and the documents filed on record.

2] Heard the complainant in person and also carefully gone through the written-notes of argument.

3] According to complainant, a divorce petition was going on between himself and proposed accused no.2. Accused no.1 was examined as a witness on behalf of accused no.2 in the said litigation. According to complainant, accused no.2 pleaded extremely defamatory contentions of adultery against him. Accused no.1 adduced evidence against him, which had no relevance with his matrimonial dispute. She had adduced false evidence against him and levelled serious allegations, which both the accused failed to prove before the Court. Hence, he has prayed for issuance of process under Section 499, 500, 120-A read with Section 34 of the Indian Penal Code, against both the accused.

4] It appears from the record that, a consent divorce petition was filed by accused no.2 and the complainant before the Honourable Family Court. However, later on, accused no.2 withdrawn the consent by making certain allegations against the complainant. The evidences were led on behalf of complainant. Accused no.2 did not examine herself, but accused no.2 was examined on her behalf. While delivering Judgment, the Honourable Family Court has observed that, accused no.2 should have examined herself in support of her contentions. It was also opined that, evidence of accused no.1 was not relating to the dispute between

the parties prior to the filing of petitions, but she has deposed about the events happened during the pendency of the litigation.

5] After going through the Judgment of the Honourable Family Court, it is apparent that, nowhere the finding is given that the false case is pleaded, or that the false evidence has been led by these accused persons. The observations are that, they failed to prove their contentions by adducing the positive evidence in that respect. There is a difference between adducing false evidence and the finding that what is pleaded has not been proved. The evidence Act, Section 3 defines this term ***“Not Proved”*** as- ***‘A fact is said not to be proved when it is neither proved nor disproved’***.

6] In view of the above facts, this Court is of the view that, no prima-facie offence punishable under Section 499, 500, 120-A read with Section 34 of IPC has been made out. In the result, following order is hereby passed:-

ORDER

[1] The complaint stands dismissed under Section 203 of Code of Criminal Procedure.

Date: 13.03.2024.

(S.R. Totla)
Addl.Chief Judicial Magistrate, Pune.

*I affirm that the contents of this P.D.F file order are same word for word
as per original order.*

Name of Steno	: VB.Lalsangi (Grade-II)
Court Name	: Addl. Chief Judicial Magistrate, Pune.
Date of order	: 13.03.2024
judgment signed by P.O. on	: 13.03.2024
judgment uploaded on	: 13.03.2024