



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 4391 OF 2021**

Rahul Gandhi ..Petitioner  
Versus  
The State of Maharashtra & Anr. ..Respondents

Mr. Sudeep Pasbola i/b. Kushal Mor, Advocate for Petitioner.  
Mr. A. R. Patil, APP for State/Respondent No.1.  
Mr. Nitin Pradhan a/w. Rohan Mahadik a/w. Maheen Pradhan a/w.  
Mekhala More i/b. The Juris Partners for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.  
DATE : 26 SEPTEMBER 2023**

**PC :**

1. Heard Shri. Sudeep Pasbola, learned counsel for the Petitioner, Shri. Nitin Pradhan, learned counsel for the Respondent No.2 and Shri. A. R. Patil, learned APP for the State/Respondent No.1.

2. Shri. Pasbola, learned counsel appearing for the Petitioner made various submissions on merits of the matter. He also made certain submissions on legal aspects. He referred to Section 199 of the Cr.p.c. and submitted that, there was a legal bar for the Respondent No.2 herein to file the complaint. He referred

to Sub Section 2 of Section 199 of the Cr.p.c. which prescribes special procedure in respect of the alleged defamation of the authorities mentioned under that sub section. Shri. Pasbola referred to Section 499 of the Indian Penal Code and in particular referred to *Explanation 2* which speaks about collection of persons. He submitted that, the political party is not an identifiable group of persons and, therefore, the Respondent No.2 could not have filed the complaint in his representative capacity. Shri. Pasbola also submitted that the case involves infringement of Article 19 of the Constitution of India.

3. On the other hand, Shri. Pradhan, learned counsel for the Respondent No.2 submitted that the Respondent No.2 himself is an aggrieved person. In any case, he is a member of '*BJP Maharashtra Pradesh Committee*' and, therefore, in that capacity he was entitled to file the complaint. In any case, he himself is an aggrieved person, as, such averments are specifically mentioned in the complaint, in the verification statement and also in the statement recorded by the police in their inquiry U/s.202 of the Cr.p.c.

4. Considering these submissions, it is quite clear that the matter involves important questions of law, including special procedure provided U/s.199 of the Cr.p.c. Therefore, I deem it necessary to request the learned Advocate General of Maharashtra to address the Court on all the legal issues involved in this case.
5. Therefore, the matter be placed on board on 17.10.2023; under the caption 'For directions'.
6. Ad-interim relief granted earlier to continue till then.
7. Office is directed to send a copy of this order to the office of the learned Advocate General of Maharashtra.

**(SARANG V. KOTWAL, J.)**