

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 437 OF 2014

Nilesh s/o. Vijay Deshmukh and Anr.**Petitioners.**

Versus

The State of Maharashtra & Anr.**Respondents.**

Mr. S.S. Choudhary, Advocate for petitioner.

Mrs. R.K. Ladda, APP for State.

Mr. D.B. Thoke, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.
DATED : 17th June, 2015.

ORDER :

1. The petition is filed to challenge the order made by the learned Judicial Magistrate, First Class, Chalisgaon in SCC No. 673/2010. The learned J.M.F.C. has made order of issue process for offence punishable under section 29 (5) of the Maharashtra Rent Control Act, 1999. The complaint is filed by present respondent No. 2.

2. It is the case of complainant that he is tenant in the property owned by the accused and the accused persons are collecting rent from him. It is his case that they stopped collecting rent prior to six months of filing of the complaint.

Allegations are made that they pulled down the latrine about one month prior to the date of complaint and they have no essential service of sanitation. On the basis of verification of the complainant, the process is issued. The submissions made show that in revision, the Sessions Court set aside the order of issue process in respect of accused Nos. 1 and 4. The submissions made show that original accused No. 2 died during the pendency of present proceeding. In view of these circumstances, only the accused No. 3 - Ritesh will be facing prosecution.

3. The learned counsel for the petitioner submitted that the date of pulling down of the latrine is not mentioned and the names of the labours are not mentioned and so, the allegations are vague and so, the relief needs to be given. He also submitted that the possibility of collapse of latrine due to natural forces cannot be ruled out.

4. When admittedly petitioner is landlord and complainant is occupying the premises in the building owned by the accused, the contention that the complainant has not mentioned the names of the labours, who were involved in pulling down the latrine, cannot be the ground for giving relief. Further, in such a case, the date also need not be mentioned. If

there is defence that the construction collapsed due to natural forces, it is up to the landlord to establish such thing when there are specific allegations. Only prima facie case is required to be made out for issuing process and the aforesaid material is sufficient to issue process. This Court holds that there is no possibility of interference.

5. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/