

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

CRIMINAL WRIT PETITION NO. 639 OF 2014

Pathan Iqbal Janmohamad **Petitioner.**

Versus

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

Mr. S.S. Wagh, Advocate for petitioner.

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

Mr. M.G. Deokate, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.

DATED : 24th June, 2015.

ORDER :

1. The petition is filed for relief of setting aside the order made by the Sessions Court, Beed in Criminal Revision No. 131/2013. The revision is filed against the order of dismissal of complaint as against present respondent No. 2 - Rote. The complaint was filed against one Smt. Seeta and present respondent No. 2. The complaint as against the present respondent No.2 is dismissed on the ground that it was necessary to obtain sanction under section 197 of Criminal Procedure Code. Both the sides are heard.

2. Present petitioner/original complainant has made allegations in the private complaint that Smt. Seeta was working

in a school of Janpir Madhyamik Vidyalaya, Nalwandi, Koregaon, Taluka Patoda on leave vacancy. The petitioner is treasurer of this educational institution. It is his case that she worked on leave vacancy between 2009-2010 and again between 2010-2011 and the appointment was only up to 30.4.2011. It is contended that Education Officer had given approval to this temporary appointment of leave vacancy and so, the period expired on 30.4.2011. It is contended that on that day, not only the order of termination was given, but there was resignation letter given by Smt. Seeta.

3. It is the case of complainant that in spite of the aforesaid facts and circumstances, accused No. 2 - Rote created false record like a false report in respect of employment of Smt. Seeta. Copy of the report is collected by the complainant from the office of Education Officer. It is contended that some false record in respect of other period for which Smt. Seeta had not worked, was created and it was reported by present respondent that it was a case for consideration of regular appointment of Smt. Seeta.

4. The submissions made and the record show that respondent No. 2 was working as a Deputy Education Officer at

the relevant time and as per the directions given by the Education Officer, he conducted inquiry. During inquiry, the program of teaching which was prepared by Smt. Seeta was collected. Copy of that record is produced and it shows that it is signed by the teacher and the Headmaster. This document does not bear signature of respondent. Copy of report submitted to Education Officer is also on the record and it also shows that this record was submitted before him by the teacher. Thus, it cannot be said that false record was prepared by him. When he was directed to make inquiry and give report, he made inquiry and gave report. He was discharging his official duty and he is from education department from Zilla Parishad. He is a public servant and in view of these circumstances, sanction under section 197 of Cr.P.C. was necessary for prosecuting him, if at all there was any illegality or any offence was committed by him of the nature alleged. This Court holds that the J.M.F.C. and the Sessions Court have not committed any error in refusing to issue process against him.

5. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/