

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2873 OF 2015

NILESH DEVIDASRAO JOSHI
VERSUS
THE STATE OF MAHARASHTRA & ANR

...

Advocate for Applicant : Mr. V.P. Latange
APP for Respondents: Mr. M.M. Nerlikar
Advocate for Respondent No.2 : Mr. Pawan Pandav (in person)

.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 17th DECEMBER, 2015

P.C. :-

1. We have heard Mr. Latange the learned counsel for the petitioner, Mr. Nerlikar, learned A.P.P. and respondent No.2 party in person.

2. The complaint as against the present applicant is registered for the offences punishable under Sections 66-A, 66-C and 67 of Information Technology Act. It is submitted that, subsequently even Section 406 and 420 are added.

3. As far as the offence being registered under Section 66-A is concerned, the same cannot be tenable in view of the judgment of the Apex Court in the case of ***Shreya Singhal vs. Union of India, reported in 2015 AIR SCW 1989.*** The said provision has been held to be ultra-virus and unconstitutional.

4. As far as the offences under other provisions are concerned, it is submitted that the investigation is in progress. It would be appropriate not to stall the said investigation. In case after investigation is complete and charge sheet is being filed, the applicant will have every right to take steps such as moving application for discharge or otherwise or such other steps as is permissible in law. We would not be entering into the merits at this stage in respect of offences charged under other sections in view of the fact that investigation is halfway through. In the result, we pass the following order.

5. F.I.R. No. 3089 of 2014 registered with Kadim Jalna police station, to the extent of offence under Section 66-A of Information Technology Act is quashed. Investigation may proceed with regard to other offences enumerated in the said complaint. The applicant is at liberty to take such steps, such as filing application for discharge or otherwise, if occasion so arises. It is made clear that we have not considered the merits of the contentions and the same are kept open.

6. The application is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

rlj/