

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.955 OF 2014

Shyamsunder Vasudev Agarawal
Age 54 years, Occu. Business
R/o at 09, Ganesh Building,
122, Navi Peth, Jalgaon 425 001

.. Petitioner

Versus

1. The State of Maharashtra

2. Shri Darshansing Bedi,
Age Major, an Arbitral
Tribunal, Arbitrator for the
Akola Janata Commercial
Co-operative Bank Ltd.,
Branch Navi Peth, Jalgaon
Taluka and Dist. Jalgaon
R/o B-9, Yogeshwar Silver
Park Apartment, Ulka Nagari,
Garkheda, Aurangabad 431 001

..Respondents

Mr A.G. Talhar, Advocate for petitioner
Mr S.R. Palnitkar, A.P.P. for respondent No.1
Mr S.C. Bhosale, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 19th August 2015

PER COURT

Heard.

2. The present petition is questioning the legality and validity of the order of dismissal passed under Section 203 of the Cr.P.C. by the Chief Judicial Magistrate, Jalgaon on 2nd September 2009 in Regular Complaint Case No.380/2008 confirmed in Criminal Revision Application No.314/2009 by an order dated 6th March 2014 passed by the Additional Sessions Judge, Jalgaon.

3. Facts as are necessary for deciding the present petition are as under :

4. The present petitioner, a partner in a firm obtained loan facility from a co-operative Bank which went in dispute resulting into appointment of an Arbitrator.

5. The Arbitrator delivered the award against the present petitioner which, according to learned Counsel for the petitioner is already satisfied, as the entire payment has been made to the financial institution.

6. The petitioner claims that the Arbitrator styling himself to be Court, has made complaint on 20th June 2007 to the Senior Inspector, City Police Station, Jalgaon alleging threats and disturbance in arbitration proceedings by the petitioner in which the Arbitrator referred himself as a Court, which in the submission of learned Counsel for the petitioner amounts to an offence of impersonation.

7. In view thereof, the petitioner lodged complaint bearing No.380/2008 alleging that the arbitration proceedings referred to above against him were conducted in the premises of Co-operative Bank, Jalgaon and the complainant-petitioner was meted out with high handed treatment. The Arbitrator since acted in bias and partisan manner and has used unparliamentary language. The petitioner then stated that the Arbitrator has threatened the petitioner, however, has not initiated any proceedings under the Contempt of Court's Act.

8. It is further alleged that the complaint that was preferred by the Arbitrator against the petitioner bearing Complaint No.220/2007 alleging commission of an offence punishable under Sections 186, 504 and 506 of the Indian Penal Code has prompted him to take pre-arrest bail from the Court. The petitioner then claimed that the respondent No.2 has committed an offence punishable under Section 419 of the Indian Penal Code and he accordingly be punished.

9. Upon verification, learned Chief Judicial Magistrate has noted that the complaint that was preferred by the Arbitrator was not acted upon by the Police Officer. Learned Chief Judicial Magistrate then noted that the Arbitrator was admittedly acting as per the provisions of Arbitration Act to which the petitioner has given response to. By using word, "Court" instead of "Tribunal" same does not constitute any offence of cheating or impersonation, particularly as there is no satisfaction about the requirement of the said Section.

10. In appeal, the appellate Court while dismissing the appeal has noted that just because, the word, "Court" is used in the complaint by the Arbitrator against the petitioner, the same won't amount to commission of an offence as alleged, under Section 419 of the Indian Penal Code.

11. In the light of above, the submissions made by learned Counsel for the petitioner are that both the judgments are liable to be set aside and the appropriate writ to be granted, he has invited attention of this Court to the conduct of the Arbitrator-accused and also the observations made by both the Courts below.

12. Learned Assistant Public Prosecutor and Mr Bhosale, learned Counsel for respondent No.2 have strongly opposed the above referred submissions.

13. It is required to be noted that the offence under Section 419 of the Indian Penal Code is a cognizable, bailable and compoundable offence with the permission of the Court. It is required to be noted here that there has to be false identification and as a result of which the complainant must demonstrate the harm suffered by the complainant. In present case, the petitioner has not brought on record as to the harm suffered by him in view of conduct of Arbitrator by referring himself to be a Court instead of Arbitrator before the Police authority.

14. In view of above, in my opinion, the view taken by both the Courts below is just and proper. No case for interference in extraordinary jurisdiction is made out.

15. The petition which is against concurrent findings fails, stands dismissed.

(N.W. SAMBRE, J.)

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