

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

CRIMINAL APPLICATION NO. 472 OF 2014

Mr. Vijay Jaypal Magdum ... Applicant/ Petitioner.

V/s.

The State of Maharashtra ... Respondent.

Mr. Uday Warunjikar, Advocate for Applicant.

Mr. Rajesh More, A. P.P. for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 18th JUNE, 2015

P.C. :

1 Admit. Heard finally.

2 Heard the learned counsel appearing for the applicant and the learned A.P.P. for the State.

3 The applicant has filed a complaint in the court of Judicial Magistrate, First Class, Jaysingpur at Jaysingpur, District Kolhapur for the offences punishable under sections 384, 447 and 500 read with 34 of the Indian Penal Code against the three accused, namely, Chandrakant, Bajarang and Aakkubai. The verification statement of the complainant was recorded. After recording verification, the learned

Magistrate dismissed the complaint by observing that allegations that the proposed accused had demanded Rs. 80,00,000/- from the complainant did not appear to be correct. However, the learned Magistrate has not given any reasons as to why he has come to such a conclusion.

4 The Revision filed by the applicant has also been rejected on the ground that the specific date of incident of the offences punishable under sections 384 and 447 was not mentioned in the verification statement. The learned additional Sessions Judge failed to realize that the specific date is given in the complaint and, therefore, only because the specific date was not mentioned in the verification statement, the complaint could not have been dismissed.

5 The learned Magistrate also failed to realize that verification of the complaint or in other words the statement of the complainant on oath is the work to be performed by the Magistrate himself. It was not difficult for the Magistrate to verify from the complainant as to what was the date of the incident. In my opinion, the order of the learned Magistrate suffers from infirmity. Order of the revisional court also cannot be sustained.

6 As far as the offence under section 500 of the Indian Penal Code is concerned, the learned counsel Mr.

Warunjikar does not press for any relief. He is at liberty to file a separate complaint for the said offence.

7 The orders passed by the learned Magistrate and the learned additional Sessions Judge are set aside.

8 The learned Magistrate is directed to issue process against the proposed accused for the offences punishable under sections 384 and 447 of the Indian Penal Code.

9 This application stands disposed of in the above terms.

(JUDGE)

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