

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1903 OF 2014

Sangram Dadaji Deore ... Petitioner
vs.
Macchindra (Sharad) Rajaram Pagar & Ors. Respondents

Mr. Anilkumar K. Patil, a/w Mr. Pankaj Pandey, Advocate, for the petitioner
Ms. A.A. Mane, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 24th August, 2015.

P.C.

Heard. Rule. Rule returnable forthwith.

2. The petitioner herein is the original complainant in S.C. No.30 of 2006. The petitioner herein had filed a complaint before the Judicial Magistrate, First Class on 9.1.2006 alleging therein that the accused happens to be the husband of the sister of the complainant. It is alleged that the father of the petitioner was holder of the licence of country liquor. On the basis of the said licence, the father of the petitioner was running a country liquor shop at Umrane, Taluka Malegaon. According to the complainant, the accused-respondent was insisting upon the father of the

petitioner to induct him as a partner in the said firm. That there was matrimonial dispute between the accused and the petitioner. It is alleged that the accused had induced the wife of the petitioner to file a complaint against him under Section 498A of Indian Penal Code. It is also alleged that the accused was putting pressure upon the father of the petitioner that if he was not inducted in the partnership firm, he would commit suicide and thereby his wife, who happens to be the sister of the petitioner would become a widow and therefore, the father of the petitioner was constrained to execute a bond on a non-judicial stamp which was to be read as a partnership deed between the parties. It is alleged that the said partnership deed is not registered before the Registrar, but it is on a non-judicial stamp. The said deed was executed on 9.4.1999. On 21.11.2003, the witness to the said partnership deed had filed an affidavit before the Notary that the said partnership deed is deemed to be cancelled and an affidavit was filed to that effect. It is alleged that the consent of the legal heirs of the father of the petitioner was not obtained. It is also alleged that subsequently, the accused had obtained the signatures of the legal heirs i.e. of the petitioner and other legal heirs under coercion and the same was shown to be the consent letter of the legal heirs. It is alleged that the father of the petitioner had filed an application before the Collector on 23.9.2003 requesting the

Collector to cancel the said partnership deed. There is a civil dispute between the accused and the complainant regarding licence of country liquor shop. The Collector has rejected the said application. The said matter was also agitated before the Excise Officer. The father of the petitioner had filed an appeal No.260 of 2005 before the Commissioner of State Excise, challenging the order of the Collector. The matter was remanded for fresh consideration. Thereafter, the Collector had allowed the application filed by the father of the petitioner and the name of the accused was deleted by an order dated November 2005. The said order was also challenged before the Commissioner and was confirmed on 16.11.2005. The accused had then filed an application before the State Government and the orders passed by the Collector as well as the Commissioner were set aside. Being aggrieved by the said order passed by the Government, the father of the petitioner has filed a Writ Petition in the High Court. The learned counsel for the petitioner submits that the said writ petition is pending adjudication.

3. In the present case, upon reading the averments in the complaint, the learned Magistrate had taken the verification statement on 25.1.2006 and by an order dated 13.3.2006, the learned Magistrate had passed an order thereby issuing process against the accused for the offences

punishable under Sections 420 and 467 of IPC.

4. The accused therein had filed Criminal Revision Application No.107 of 2006 before the Addl. Sessions Judge at Malegaon, challenging the order of issuance of process. The learned Sessions Court by an order dated 15.1.2014 was pleased to allow the Revision and set aside the order of issuance of process thereby quashing the complaint under Section 203 of Cr.P.C.

5. It is pertinent to note that the complainant has specifically contended in the complaint itself that the partnership deed was signed by the father of the petitioner. However, according to him, it was not a voluntary gesture, but under coercion. Similarly, it is also contended that the signatures of the legal heirs were obtained on blank papers thereby showing the consent of the legal heirs for the alleged partnership deed. The complainant has not denied that the said documents were executed, however, according to him, it was under coercion. It therefore cannot be said that the signatures of the complainant/petitioner or his father had been forged. It is further pertinent to note that the said matter had travelled from the office of the Collector till the High Court and the only contention that

was raised throughout is that the said documents were executed under coercion. The said matter is subjudice in a Writ Petition challenging the orders passed by the Government of Maharashtra and therefore the learned Sessions Judge has rightly allowed the Revision Application by quashing and setting aside the order of issuance of process.

6. The learned counsel for the petitioner submits that the Revisional Court has committed a grave error in quashing the proceedings only upon considering the contents of the complaint and in fact, it was necessary to adduce evidence to show that the complaint has been challenged by the accused persons. The Court cannot be oblivious of the fact that the petitioner and the accused are close relatives. All that has to be seen is whether it was a voluntary gesture or not. The learned counsel for the petitioner submits that the complainant ought to be given an opportunity to prove that it is not a voluntary act of the father of the petitioner. No averment to that effect was made till the stage of filing of the Writ Petition. Admittedly, it is a civil dispute and the only question remains is whether the act was voluntary or not. In view of this, the order passed by the Sessions Court does not call for any interference. The deed was executed on 9.4.1999 and the disputes are still pending.

7. Hence, the Petition deserves to be dismissed in limine. No order as to costs. Rule is discharged.

(SMT.SADHANA S.JADHAV, J.)