

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2468 OF 2010

Kailash Mannalal Jindal

...Petitioner

Versus

The State of Maharashtra & Anr

...Respondents

None for the Petitioners.

Mr. Ajay Jajodiya Respondent No.2-in person, present.

Smt. A.A. Mane, APP for the Respondent -State.

CORAM:-M.L. TAHALIYANI, J.

DATED :18th APRIL, 2015.

PC.

This petition impugns the order passed by the learned Metropolitan Magistrate, 29th Court, Dadar, calling upon the Petitioner to answer the charges for the offences punishable under sections 465, 468, 471 and 506 II of the IPC. The Petitioner was summoned on the complaint made by Respondent No.2 Ajay Jajodia.

2. The case of Respondent No-2 before the learned Magistrate was that while the Petitioner was facing a trial in Criminal Case No.49/SW/2005, he had produced one document purported to be pursis signed by the Petitioner and Respondent No.2 whereby the

Court was requested to put an end to the criminal case No.233/Misc/99. This 233/Misc/99 was ultimately converted into 49/SW/2005 after issuance of process to the Petitioner. It appears that contention of the Petitioner was that the Petitioner and Respondent No.2 had decided to put an end to the dispute by filing the said pursis.

3. Respondent No.2 in his complaint stated that said pursis was never signed by him and that it did not contain his signature. He, therefore, took opinion of handwriting expert to examine the specimen signature of Respondent No.2 and purported signature of Respondent No.2 on the said pursis. Document Examiner has opined that the authors of two signatures were different. It is on this basis the Petitioner was prosecuted for the above stated offence.

4. The question which arose for determination is as to whether there is prima facie case to hold that Petitioner was responsible for said signature. Even if it is assumed for the sake of arguments that the signature on pursis did not belong to Respondent No.2 what is required to be proved is that forgery, if any, was committed by the Petitioner. There was no material before the

Magistrate to indicate at all that the signature of Respondent No.2 was done by the Petitioner. In the circumstances, the Magistrate could not have issued process against the Petitioner. Signature may not belong to Respondent No.2 but to prima facie establish that involvement of the Petitioner, some other evidence was required. Material before the Magistrate was not sufficient to issue process.

5. Proceedings pending against the Petitioner vide Criminal Case No.28/SW/2010 in the Court of Metropolitan Magistrate, 29th Court, Dadar are hereby quashed. Bail bonds shall stand cancelled.

6. Writ Petition stands disposed of accordingly.

(JUDGE)