

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3775 OF 2014

Achyut D. Mandlik.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. S. S. Patwardhan i/b Mr. Deepak Shegakar for the Petitioner.

Mr. S. K. Shinde, Public Prosecutor for Mr. J. P. Yagnik, learned
APP for the State.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **March 24, 2015.**

P. C. :

1. By the order dated 16th February 2015, we issued notice to Respondent No.2 and made it returnable on 18th March 2015. Office remark shows that Respondent No.2 has refused to accepted service. Learned Counsel appearing for the Petitioner states that Respondent No.2 has been served with the private notice. We were, therefore, constrained to proceed with this matter on merits in the absence of Respondent No.2.

2. Heard Mr. S. S. Patwardhan, learned Counsel appearing for the Petitioner and Mr. J. P. Yagnik, learned APP for

the State. This is the petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of Criminal Complaint No.1917/PW/2013 pending on the file of Metropolitan Magistrate, 13th Court at Dadar, Mumbai. The said case is the offshoot of registration of an FIR, bearing No.118 of 2013 with R. A. Kidwai Marg Police Station, Mumbai on 19th April 2013 by Respondent No.2 for the offence punishable under sections 504 and 509 read with 34 of the Indian Penal Code, 1860.

3. A copy of the FIR is on record. We have perused the same. Perusal of the same discloses that Respondent No.2 has made allegations mainly against 4 persons, namely, Bhushan Gawade, present Petitioner, driver of the Petitioner – Baban, watchman of the society – Chavan. So far as the Petitioner is concerned, the only allegation made against him is that since last 15 to 20 years, he has illegally allowed his driver - Baban to stay in Society's stilt area. The allegations are also made that the Petitioner's driver used the common bathroom of the society and after taking bath, he (driver) comes out in open on the towel, he

sleeps in open on the undergarments, he puts his undergarments in the open. In our view, the allegations made in the complaint do not disclose any offence qua the Petitioner. The Petitioner in any case cannot be held liable vicariously for the criminal acts, if any, of his driver.

4. In our view, in above circumstances the continuation of the criminal case qua the Petitioner will be the abuse of the process of law. In that view of the matter, we hereby quash the proceedings of C.C.No. 1917/PW/2013 pending on the file of the Metropolitan Magistrate, 13th Court at Dadar, Mumbai qua the Petitioner only.

5. Writ petition stands disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]