

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Application No. 31/2015 in Criminal Writ Petition No. 871/2014

Yashwant s/o Nathuji Janve and anr ..vs.. The State of Maharashtra, through
Additional Secretary, Home Department, Mumbai and 8 others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Petitioner in person.

Mr. T. A. Mirza, A.P.P. for non applicant-State.

CORAM: A.B. CHAUDHARI & P.N. DESHMUKH JJ.

DATE : FEBRUARY 20, 2015

By order dated 29.01.2015, this Court granted permission to amend the petition for addition of party i.e. Police Inspector Anil Katkade and rejected the request for bringing rest of the names of the police staff on record of this petition. This Court also rejected the complaint made by the petitioner against one clerk of the registry of this Court, which was found to be having no substance but just to harass the concerned staff of the registry out of the own whims and fancies of the petitioner. In the last paragraph of the order, this Court had stated, that in normal course we would have imposed cost on the petitioner-in-person indulging in such types of acrobatics. But this Court did not do so. The petitioner was also warned not to indulge with such types of frivolous complaints. The petitioner-in-person has, however, again filed application i.e. Criminal Application No. 31/2015 for recall of the said order.

Heard petitioner in person and learned A.P.P. for non applicant-State.

The petitioner again submitted that he wants all police staff of the Police Station, Ambajhari to be added as party to this writ petition, though we have specifically rejected the same since we did not find any averments in the petition about other police staff members. The prayers in the petition are omnibus i.e. for registration of offence against the staff members of the particular Police Station and for handing over the investigation to the Central Bureau of Investigation etc. It is, in this context, the petitioner asked for addition of parties to this writ petition.

The question is, however, no more res integra that such proposed accused persons are not required to be made party to the petition. The Supreme Court also, in the following judgment, found fault with the High Court in allowing the addition of number of accused persons or potential accused persons as party to the writ petition. We quote following extracted portion from paragraph 50, which is conclusive in nature from the decision in the case of **Dinubhai Boghabhai Solanki ..vs.. State of Gujarat and ors.; (2014) 4 SCC 626**

“50.These observations make it abundantly clear that it would not be necessary to give an opportunity of hearing to the proposed accused as a matter of course. The Court cautioned that if prior notice and an opportunity of hearing

have to be given in every criminal case before taking any action against the accused person, it would frustrate the entire objective of an effective investigation. In the present case, the appellant was not even an accused at the time when the impugned order was passed by the High Court. Finger of suspicion had been pointed at the appellant by independent witnesses as well as by the grieved father of the victim.”

In the light of the above said decision of the apex Court, we find that the petitioner-in-person is clearly abusing and misusing the liberty for he prosecuting the case in person. Of late, the petitioner-in-person filing the petition and then consistently pressing for the reliefs for which they are not entitled in law, has become a habit. It is clear that the petitioner does not know the pronouncements of law as above made by the apex Court. However, the petitioner is beating around the bush by citing the decisions which are not relevant. That is not deliberate but because of the lack of legal knowledge on his part.

The question, however, is; whether for lack of legal knowledge of the petitioner-in-person, time of the Court should be wasted in the manner sought to be done?

That is the reason why, by order dated 29.01.2015, we have stated that the petitioner would have been saddled with costs but that was not done by us and, in

fact, we restrained ourselves from doing so. However, the petitioner has again started the same activity with request to add all the police staff of Ambajhari Police Station as party-respondents to the petition. We have orally warned the petitioner not to indulge in such type of acrobatics but to no use. This is a matter in which the persons like the petitioner have been wasting time of the Court without trying to understand the legal position and are also denying to take legal assistance from the Legal Aid Committee when offered by this Court on the ground that they have no faith in the services provided by the Legal Aid Committee. This cannot be allowed.

Hence, the petitioner is directed to pay costs in the sum of Rs.2,000/- payable to the Commissioner of Police, Nagpur. The amount of costs shall be paid within a period of four weeks from the date of receipt of this order. If the petitioner fails to deposit the costs in the account of Commissioner of Police, Nagpur within four weeks, the Collector, Nagpur shall recover the same as arrears of land revenue.

With these observations, Criminal Application No. 31/2015 is dismissed.

JUDGE

JUDGE