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

CRIMINAL APPLICATION NO. 795/2010
(Dr. Sudhir s/o Popatlal Soni vs. State of Maharashtra and another)

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

Court's or Judge's order

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Mr. A.G. Gharote, Advocate for applicant
Mrs. P.D.Rane, Addl.Public Prosecutor for Respondent no.1
Mr. R.R.Vyas, Adv. For Respondent no.2.

CORAM : INDIRA K. JAIN, J.
DATED : 23rd June, 2015.

Heard.

This Application under Section 487 of the Code of Criminal Procedure is filed against the judgment and order dated 18.07.2009 passed by learned Additional Sessions Judge-8, Nagpur in Criminal Revision Application No.1001/2008. By the said order, learned Addl. Sessions Judge dismissed the Revision Application and confirmed the order of issuance of process passed by the learned Magistrate in Criminal Complaint No.9199/2008 on 20.10.2008.

2. Facts giving rise to the present Application may be stated in brief as under :

That applicant was arrayed as accused

no. 5 in Criminal Complaint No.9199/2008 filed by respondent no.2 before learned Judicial Magistrate, First Class, Nagpur. The mother of complainant and accused including the present applicant were the members of Green Park Flat Owners' Cooperative Housing Society Limited, Civil Lines, Nagpur. There was a dispute on parking of vehicles *inter se* amongst the members of society. According to complainant /respondent no.2 he and his family constructed car-shed at their own cost in view of the resolution passed by the society.

3. It is alleged that on 22.7.2007, in the morning, when complainant was out of station for business purpose, some 8 to 10 anti-social elements started demolishing the car-shed erected by complainant and his family, as per directions of accused nos. 1 to 5. It was reported to wife of complainant by their maid-servant Leela Atram. In turn police was informed. As no concrete steps were taken complaint under Section 200 of the Code of Criminal Procedure was filed by respondent no.2 before the learned Magistrate.

4. Then vide order dated 20.10.2008 process was issued against the accused under Sections 157,

436, 448, 506 and 447 of the I.P.C. It was carried in Revision before the Sessions Court, Nagpur. Revision came to be dismissed and order of issuance of process was confirmed by the learned Addl. Sessions Judge, Nagpur vide order dated 18.7.2009.

5. Being aggrieved, applicant/ original accused no.5 challenged the order under Section 482 of the Cr. P.C. It appears that Regular Civil Suit No. 823/2007 was pending between the mother of complainant and the Society before the learned Civil Judge, Sr.Dn., Nagpur. The said Civil Suit came to be amicably settled. Term No.9 of the Consent Terms reads as under :-

> " It is further agreed that party No.1 shall withdraw the Criminal Sessions Trial No.101/ 2010 pending before the *Ad-hoc* District Judge-3 and Additional Sessions Judge, Nagpur and R.C.S.No.823/2007 pending before the Hon'ble Jt. C.J. J.D., Nagpur as against this settlement. "

6. It is submitted by learned counsel for applicant that one of the offences in the complaint was triable by the Court of Sessions and so the case

was committed to the Sessions Court, Nagpur. In this background, it was agreed to withdraw Sessions Trial No.101/2010 pending before learned *Ad-hoc* District Judge -3 and Additional Sessions Judge, Nagpur.

7. In view of the settlement arrived at and submissions made by the learned counsel for the parties impugned order dated 18.7.2009 passed in Criminal Revision Application No.1001/2008 by the learned Addl. Sessions Judge-8, Nagpur and the order passed by the learned Magistrate in Criminal Complaint No.9199/2008 on 20.10.2008 are quashed and set aside.

8. Rule is made absolute in the aforesaid terms.

9. Interim relief stands vacated.

JUDGE

sakare