

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

CRIMINAL WRIT PETITION NO.628/2013

Yuwraj Yashwantrao Humne ..vs.. State of Maharashtra and ors.

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 respondent-State.

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

DATE : FEBRUARY 20, 2015

Heard the petitioner in person for considerable time. He submitted that in terms of prayer clause (i) of the writ petition, this Court should direct initiation of departmental enquiry against respondent nos. 2, 3, 4, 5 and 6 and also issue directions to punish them. He submitted that the originally he had filed Civil Writ Petition in this Court but then this court suo motu directed conversion of civil writ petition in criminal writ petition and, therefore, according to him, he is not at fault in claiming relief for holding departmental enquiry. He then submitted that he had lodged FIR against respondent no. 5 and others to Police Station but police did not take any cognizance.

We have perused the prayers made by the petitioner in the present writ petition and second part of

prayer clause (ii) in particular, which clearly shows that the petitioner claimed relief of registration of offence against respondent nos. 2, 3, 4, 5 and 6 for an offence punishable under Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Indian Penal Code. Thus, we find that the civil writ petition was rightly converted into criminal writ petition.

Insofar as relief claimed in prayer clause (i) to hold department enquiry is concerned, we do not think that the said relief could be granted under criminal jurisdiction. The petitioner, therefore can be given liberty to take such steps which are available in law for prosecuting prayer clause (i) of the writ petition.

Insofar as prayer (ii) is concerned, we are satisfied with the affidavit-in-reply filed by respondent-State. We reproduce paragraphs 4 and 6 thereof as under:-

“4.Therefore this answering respondent has conducted enquiry in respect of report dated 18.10.2012 by recording statement of witnesses and come to the conclusion that said complaint is false and only with revengeful attitude. That Dy. Commissioner of Police, Zone-II scrutinized and accepted the said report. Therefore on 20.4.2013 Dy. Commissioner of Police, Zone-II has submitted report to the Additional Director General of Police, Protection of Civil Rights, Mumbai. As such this answering respondent has conducted an enquiry as

per report dated 18.10.2012 of the petitioner and submitted report to the Dy. Commissioner of Police, Zone-II and Dy. Commissioner of Police Zone II submitted report to the Additional Director General of Police, Protection of Civil Rights, Mumbai.

5.

6. *It is submitted that on receipt of letter of this answering respondent, the petitioner has filed complaint case i.e. Crime No. M-3/2013 for offence u/s 294, 308, 506-B of Indian Penal Code and Section 3 (i) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) act, 1989, before Judicial Magistrate First Class, Court NO. 6, Nagpur. On 7.6.2013 the Judicial Magistrate First Class Nagpur has passed the order u/s 156 (3) of Criminal Procedure Code thereby directed to register the offence and make the investigation and submit report. Therefore this answering respondent on 11.6.2013 Crime No. M-3/2013 for offence u/s 294, 307, 506-B of Indian Penal Code and Section 3 (I) (x) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against accused Manoj Gabane. Therefore, Assistant Commissioner of Police, Sadar Division Nagpur has conducted the investigation and submitted 'B' final report on 30.10.2013 before the Judicial Magistrate First Class, Nagpur. That the A.C.P. Sadar has*

conducted the investigation and come to conclusion that report dated 8.3.2013 of the petitioner is found false and with revengeful attitude.”

From the above, it is clear that after investigation, police filed “B” Summary report before the Magistrate. In such a situation, judgment in the case of Arumugam Servai .vs.. State of T. N.; 2011 Cr. L. J. 2899 cited by learned petitioner-in-person, has no application. At any rate, we find that the remedy for the petitioner is either to file private complaint case or take such other steps as are available in law for prosecuting remedy is available to the petitioner.

That being so, we dispose of Criminal Writ Petition No. 628/2013 reserving liberty in favour of the petitioner to take such other steps as are available in law, including filing of private complaint case.

JUDGE

JUDGE