

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL WRIT PETITION NO.392 OF 2016**

Shri Sainath S/o Ramrao Thombre  
age: 46 years, occu: Government service  
as Police Inspector, presently working  
at Anandnagar Police Station,  
Washi, Tq. Washi, Dist. Osmanabad  
R/o Washi, tq. Washi,  
District Osmanabad

Petitioner

**Versus**

1 The State of Maharashtra  
through its Secretary  
Revenue & Forest Department,  
Mantralaya, Mumbai – 32

2 The Collector / District Magistrate,  
Osmanabad

3 Dr. Prashant Narnaware  
Collector, Osmanabad

Respondents

Mr.V.D. Sapkal advocate for the petitioner  
Mr.K.S.Patil, APP for Respondent No.1 & 2

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CORAM : **R.M. BORDE, J & K.L. WADANE, JJ**

(Date : 6<sup>th</sup> APRIL, 2016.)

**ORAL JUDGMENT**

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final decision at admission stage.

3 A notice issued by the District Magistrate on 9.3.2016 under section 17 of the Contempt of Courts Act, 1971, directing the petitioner to show cause as to why action shall not be taken against him, is a matter of challenge in the instant petition.

4 The notice needs to be quashed and set aside for want of jurisdiction, conferred on the issuing authority. Section 15 of the Contempt of Courts Act, 1971 deals with cognizance of criminal contempt in other cases which reads thus:

“ 15. Cognizance of criminal contempt in other cases – (1)

In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by -

- (a) the Advocate-General or
- (b) any other person, with the consent in writing of the Advocate – General (or)
- (c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf or any other person, with the consent in writing of such Law Officer

(2) In the case of any criminal contempt of a subordinate

Court, the High Court may take action on a reference made to it by the subordinate Court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is allegedly to be guilty.

Explanation - In this section, the expression "*Advocate-General*" means -

(a) in relation to the Supreme Court, the Attorney-General or the Solicitor-General

(b) in relation to the High Court, the Advocate-General of the State or any of the States for which the High Court has been established;

(c) in relation to the Court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf. "

5 Section 17 of the Act of 1971 prescribes for procedure after cognizance, whereas section 18 prescribes that every case of criminal contempt under section 15 shall be heard and determined by a Bench of not less than two Judges. It needs no further elaboration that the District Magistrate does not have jurisdiction to exercise powers under the Contempt of Courts Act, 1971. The impugned notice issued by the District Magistrate is without

jurisdiction and as such deserves to be quashed and set aside and is accordingly quashed and set aside.

6 Rule is accordingly made absolute.

(K.L. WADANE, J)

(R.M.BORDE, J)

Later on

Learned Public Prosecutor appearing for the State, on instructions informs that, the notice impugned in this petition is already withdrawn by the District Magistrate. As such, its quashment is not warranted.

(K.L. WADANE, J)

(R.M.BORDE, J)