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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1087 OF 2016

Parasram s/o Bhagwan More,
Age : 41 years, Occu. Social work,
R/o Village Nal Vihira,
Taluka Jafrabad, District Jalna

..PETITIONER

VERSUS

1. Damota s/o Doulat More,
Age : 67 years, Occu. Service as
Police Patil, R/o Village Nal
Vihira, Taluka Jafrabad,
District Jalna

2. The State of Maharashtra

..RESPONDENTS

Mr R.S. Deshmukh , Advocate for petitioner;
Mr R.V. Dasalkar, Addl. Public Prosecutor for respondent no.2

CORAM : N.W. SAMBRE, J.

DATE : 2nd September, 2016

ORAL ORDER :

The present petitioner filed a complaint case being Misc. Application No.25 of 2014 against respondent no.1, who is working as Police Patil since 4th March, 1971, alleging therein that the school leaving certificate, as was used at the time of securing such appointment was by practicing fraud. According to him, the date of birth of the accused is mentioned as 9.6.1948 and in the school he was admitted on 13.6.1953. Respondent no.1 thereafter changed his name from "Damyanta" to "Damota". He would then urge that if the dates of birth of the children of respondent no.1 – accused are considered, the same would reflect that the children were born to

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respondent no.1 – accused after the date of birth of respondent no.1 – accused.

2. The petitioner claims that he being son of a Grampanchayat member is entitled to cause such an inquiry and sought order under section 156 (3) of the Code of Criminal Procedure for offences punishable under sections 420, 463, 467, 468 and 471 of the Indian Penal Code.

3. The said application, which was preferred in 2014, came to be rejected by the Judicial Magistrate First Class, Jafrabad on 13th March, 2014, which was confirmed in revision by Ad hoc Additional Sessions Judge-3, Jalna, vide order dated 24th February, 2015.

4. Mr Deshmukh, learned Counsel appearing on behalf of the petitioner, would urge that upon perusal of the complaint, since the ingredients of sections under which the offence is punishable, were made out and cognizable offence was disclosed, the least that was expected of Magistrate is to pass an order of either causing inquiry or referring the matter for inquiry to the police officer or any other fit person. He would then urge that once the entry of respondent no.1 in the service as a Police Patil is by taking recourse to illegal means, the same cannot be permitted to be perpetuated and as such, the same had prompted the petitioner to move the application.

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5. At the outset, it is required to be noted that this Court had given an option to the petitioner in the beginning, whether he intends to withdraw the petition, however, the learned Counsel appearing on behalf of the petitioner has proceeded to argue the matter on merits.

6. Apart from above, what is required to be noted is that, on the date of filing of the complaint, age of the petitioner was 39 years and he has alleged that respondent no.1 is working as a Police Patil for last about 44 years. The steps as were taken by the petitioner claiming to be a son of a Grampanchayat member, so as to initiate criminal proceedings against the sitting Police Patil, that too after a period of 44 years of his appointment, is nothing but misuse of court proceedings and the remedy available in law, at the behest of the petitioner. It is required to be noted that the petitioner appears to be a busybody, who intended to settle his personal scores against respondent no.1 by moving such frivolous application and consumed valuable time of the court, which could have been devoted for other good purpose in deciding the old pending matters, as the matters of 2004 are still pending for final hearing.

7. The above referred conduct of the petitioner is required to be called for to be dealt with an iron hand and as such, while dismissing the petition, in my opinion, it will be appropriate to order payment of costs of Rs.25,000/-, to be recovered by the Tahsildar, by taking recourse to the provisions of the Maharashtra Land Revenue Code, by issuing revenue recovery certificate and be forthwith remitted to High Court Legal Services

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Sub Committee, Aurangabad. It is to be noted that appropriate report *qua* recovery of costs to be made from the petitioner be filed within eight weeks from today.

8. With above observations, Criminal Writ Petition stands rejected.

(N.W. SAMBRE, J.)

amj