

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

CRIMINAL WRIT PETITION NO.1208 OF 2015

Dr. Prabhakar s/o Shivram Pawar,
Age 61 years, Occu. Retired,
R/o Pushkaraj Building, Bagade Mala,
Balikashram road, Ahmednagar,
Taluka and District Ahmednagar

.. Petitioner

Versus

1. Ganesh s/o Sitaram Magar,
Age 52 years, Occu. Service
R/o Ayurvedic College Compound,
Maliwada, Ahmednagar,
Taluka and District Ahmednagar

2. Dr. Mrudula Phadke,
Age 70 years, Occu. Service,
R/o 181, Buena Vista Society,
Jagannath Bhosale Marg,
Near Mantralaya, Mumbai

3. Shri Shashank Dalvi,
Age 60 years, Occu. Service,
R/o Pravara Institute of Medical
Science, Loni, Taluka Rahata,
District Ahmednagar

.. Respondents

Mr Y.S. Choudhari, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 18th March 2016

PER COURT

Heard.

2. Present petitioner filed Criminal Complaint No.68 of 2008 in the Court of Judicial Magistrate, First Class Court No.4, Ahmednagar alleging commission of offences punishable under Sections 469, 471, 420, 500, 192 read with Sec.34 of Indian Penal Code.

3. In the said complaint, upon recording verification and pursuant to the action under Section 202 of Cr.P.C., the learned Judicial Magistrate, First Class, Ahmednagar, on 30th September 2010 forwarded the complaint to the Investigating Officer for investigation. Learned Magistrate thereafter by order dated 1st September 2014 was pleased to dismiss the complaint under Section 203 of Cr.P.C., which was subject matter of challenge in Criminal Revision No.197 of 2014 before the learned Sessions Judge, Ahmednagar, who has also dismissed the same on 25th September 2015, as such present petition.

4. Pursuant to the order of leave to produce the documents, learned Counsel for the petitioner has produced the communication dated 1st July 2008 issued by Assistant Director, Ayurved, Pune in favour of President of Ayurved Shastra Seva Mandal, Ahmednagar, communication dated 8th April 2005 issued by the Maharashtra University of Health Science, Nashik in favour of said trust and the certificate of experience issued in favour of respondent No.1.

5. In the light of the observations made by both the Courts i.e. learned Judicial Magistrate, First Class and the learned Sessions Judge and based upon the above referred documents, learned Counsel for the petitioner would submit that both the Courts below have erred in dismissing the complaint of the present petitioner, as respondent No.1 who at the relevant time was serving as Acting Principal of the said Ayurvedic College, was not authorised to do so.

6. He would then submit that the observations as are made by both the Courts below are contrary to the evidence that is placed on record.

7. With the assistance, I have perused the contents of the complaint which was referred to Investigating Officer by the Magistrate under Section 202 of Cr.P.C. Upon perusal thereof, it is required to be noted that same is as vague as it could be. The Magistrate still showed indulgence by calling report under Section 202 of Cr.P.C. of the Investigating Officer and thereafter, having satisfied upon information, as required in the matter of commission of offence under Sections referred supra, has dismissed the same. The revisional Court has also endorsed the view taken by the Magistrate, upon independent analysis of the submissions.

8. I have perused the entire papers, including additional documents.

9. In my opinion, the view as expressed by both the Courts below is in accordance with the law, particularly in the background of piece of evidence and the pleadings, as were brought on record by the petitioner.

10. As such no case for interference in extra-ordinary jurisdiction is made out. Petition fails, stands dismissed.

(N.W. SAMBRE, J.)

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