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

CRIMINAL WRIT PETITION NO.1287 OF 2016

Dr. Pandurang Madhavrao Jadhav,
Age : 72 years, Occu. Agriculture &
Medical Practitioner, R/o Nandanvan
Colony, Aurangabad

..PETITIONER

VERSUS

The State of Maharashtra
Through Police Inspector,
Police Station, Vazirabad,
Nanded, District Nanded

..RESPONDENT

Mr V.D. Salunke, Advocate for petitioner;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 3rd October, 2016

ORAL ORDER :

The petitioner is named as one of the accused in C.R. No.4 of 2012, registered with Vazirabad police station, Nanded, on 10th January, 2012, for offences punishable under sections 420, 467, 468, 477, 474 read with section 34 of the Indian Penal Code.

2. The facts as are necessary for decision of the present petition, are as under :-

Admittedly, the present petitioner is the Vice President of Jawaharlal Nehru Institute of Science and Technology Research, Nanded, which runs and administers Santabai High School, Pala, Tq. Mukhed, District Nanded.

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3. The management of the said school forwarded a proposal to the office of the Education Officer, seeking approval to the appointments of two employees, namely, Waman Devkate; who was appointed on 1st February, 2009, with effect from 10th June, 2003 and Digambar Kamble, who was also appointed on similar lines.

4. After receipt of the proposal, the Education Officer ordered an inquiry in the matter and having noted that the entire members of the managing committee have indulged in fabrication of the record and as such lodged complaint with police, on the basis of which the crime in question came to be registered.

5. The investigation in the matter is complete and the charge-sheet is filed.

6. At this stage, application Exh.29 came to be filed in Regular Criminal Case No.587 of 2012, purporting it to be under section 245 of the Code of Criminal Procedure for discharge, before the learned Chief Judicial Magistrate, Nanded, which came to be rejected vide order dated 23rd June, 2012, which was further confirmed in Criminal Revision Application No.73 of 2014, by the learned Additional Sessions Judge, Nanded, vide order dated 12th May, 2015. As such, present petition.

7. Mr Salunke, learned Counsel appearing on behalf of the petitioner would strenuously urge that upon bare perusal of the first information

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report, it is an admitted position that the petitioner is not named as one of the accused. He would then urge that the petitioner is not a signatory to the alleged resolution, which was passed appointing the respective employees, with retrospective effect. He would then urge that the entire investigation papers do not depict any offence as against the petitioner and as such, both the courts below have committed an error apparent on the face of record in not discharging the petitioner.

8. Learned Addl. Public Prosecutor submits that both the courts below have concurrently held that there is a strong case against the present petitioner. He would then urge that this court, in exercise of extra-ordinary jurisdiction, should not interfere with the orders impugned, since there is sufficient material available about involvement of the present petitioner in the crime in question.

9. Having perused the contents of the first information report at page 23 of the petition, it is noted that the alleged resolution of appointing two employees, with retrospective effect i.e. from 2003, came to be passed on 1st February, 2009, to which the present petitioner is not a signatory. It is then required to be noted that after the above referred appointments, the management has tampered with entire attendance registers of the staff by inserting the names of these two employees. Admittedly, the present petitioner is Vice President of the management and a member of the school committee, who has certain responsibilities by virtue of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act and the Secondary School Code.

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10. Apart from above, it is noted that the petitioner is very much named as one of the accused with certain allegations in the last paragraph of the first information report.

11. Just because the petitioner is not a signatory to the resolution which was passed appointing the above referred two employees with retrospective effect, that would not absolve him of the responsibility being a member of the school committee and also that of management in the capacity of the Vice President. It is required to be noted that after the resolution of 2009 came to be passed appointing the employees with retrospective effect, in the investigation also it is noted that there is tampering of the original record by the members of the management. So as to ascertain the role of the petitioner, he has not placed on record entire documents/charge-sheet.

12. In view of above, in my opinion, no case for interference is made out, particularly when both the courts below have concurrently noted that the court cannot appreciate defence of the petitioner at this stage.

13. In view thereof, petition lacks merits and stands rejected.

(N.W. SAMBRE, J.)

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