

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

CRIMINAL APPLICATION NO. 5929 OF 2015

SAYED SAJID ALI SYED USUF ALI @ MASUL ALI AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mrs A N Ansari
APP for Respondents: Mr A R Kale

...

CORAM : V.K. JADHAV, J.

Dated: August 22, 2016

...

PER COURT :-

1. Being aggrieved by the order passed by the 3rd Judicial Magistrate First Class, Beed dated 17.10.2014 below Exh.26 in RCC No.220/2008 and the learned Additional Sessions Judge, Beed by Judgment and Order dated 15.9.2015 in Criminal Revision Application No.137/2014 confirmed the order passed by the Magistrate, Beed, the petitioner-original accused have approached this Court by filing this Criminal Application.

2. Brief facts, giving rise to the present application are as follows :-

One Narayan Balbhim Shinde came to be invited at Gram Panchayat Neknoor for hoisting the flag on 26.1.2008. Sarpanch Shri Sk. Salim Pasha had delegated his authority to said Narayan for hoisting the flag on his behalf. However, present applicants-original accused 1 to 3 interfered in it under the pretext that he is not a person authorized by the Sarpanch and also objected delegation of powers to him. In fact, the applicant-original accused 1 to 3 held string by which the flag was to be hoisted. After sometime, flag hosting was done, however, it was delayed by 5 to 10 minutes. On the basis of these allegations crime No.5/2008 came to be registered against the present applicants alongwith three more accused with Neknoor Police Station. So far as original accused 4 to 6 are concerned, their Criminal Application bearing No.980/2008 for quashing of the First Information Report came to be allowed by this Court by order dated 23.7.2008, however, Criminal Writ Petition filed by the present applicants-original accused 1 to 3 bearing No.200/2008 for quashing of the FIR came to be dismissed by this Court by order dated 11.4.2008. Thereafter, the applicants-original accused 1

to 3 had filed an application below Exh.26 seeking discharge from an offence punishable under section 2 of the Prevention of Insults to National Honour Act, 1971. The learned 3rd Judicial Magistrate First Class, Beed by order dated 17.10.2014 passed below Exh.26, dismissed the said application and the learned Additional Sessions Judge, Beed by the judgment and order dated 15.9.2015 also confirmed the said order in Criminal Revision Application No.137/2014. Hence, this Criminal Application.

3. The learned counsel for the applicants submits that, the applicants were not aware that Sarpanch had delegated his authority to hoist flag to said Narayan and in this background they have simply insisted the Sarpanch to hoist the flag. The learned counsel submits that, there was no intention on the part of the applicants-original accused to dis-honour the National Flag. In the said process delay of 5 to 10 minutes occurred in the flag hoisting ceremony. The learned counsel submits that, the Magistrate has erroneously observed that, invitation cards were printed and

distributed regarding flag hoisting scheduled at 07.45 a.m. on that day.

4. The learned APP submits that, delay caused due to the acts of the applicants-original accused 1 to 3 and because of their untimely and unwarranted objections the flag hoisting ceremony was delayed. This act has been caused in contempt to the National Honour. There is no substance in the criminal application and the criminal application is thus liable to be dismissed.

5. This Court while deciding the writ petition No.200/2008 for quashing of the FIR filed by the present applicants 1 to 3 has observed that, prima facie there is material to show that act of the present applicants falls within the ambit of section 2 of the Prevention of Insults to National Honour Act, 1971. Furthermore, on perusal of the investigation papers, it appears that, the applicants-original accused 1 to 3 had obstructed the flag hoisting ceremony which caused delay of 5-10 minutes in hoisting the flag.

6. In view of this, I do not find any substance in this Criminal Application. No interference is required in the order passed by the Judicial Magistrate First Class, Beed and confirmed by the Additional Sessions Judge-3, Beed. Hence, following order is passed.

O R D E R

Criminal Application is hereby dismissed.

(V.K. JADHAV, J.)

.....

aaa/-