

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

CRIMINAL APPLICATION NO. 6734 OF 2015

ANANT S/O RAMESHWAR PARDESHI (GUPTA)
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

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Advocate for Applicant : Mr Patil Ujwal Subhash

APP for Respondent 1 : Miss R P Gour

Advocate for Respondent 2 : Mr K P Chaware

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CORAM : V.K. JADHAV, J.

Dated: October 06, 2016

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PER COURT :-

1. Heard finally with the consent of the learned counsel for respective parties, at admission stage.

2. The applicant-original accused is seeking quashment of the Criminal Case bearing SCC No.62/2015 pending before the Judicial Magistrate First Class, Chalisgaon, District Jalgaon, for the offences punishable under sections 504, 506 read with section 34 of the Indian Penal Code.

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

a] Respondent No.2-original complainant had filed

complaint before the Judicial Magistrate First Class, Chalisgaon against the applicant-original accused for having committed an offence punishable under sections 504, 506 of the Indian Penal Code. It has alleged in the complaint that, on 5.5.2014, the respondent-complainant was present in the Court premises to attend one SCC No.43/2013. At that time, in the premises of the Court, the applicant-accused abused him in filthy language by caught holding off his collar of the Shirt and further given him a threat to allot him half share in the land, as well as in the plot, otherwise, he would kill him. It has also alleged in the complaint that, even the applicant-accused gave threat to respondent-complainant that to come outside of the Court premises and he would commit his murder. It has further alleged in the complaint that, on the same day, respondent complainant has approached to the Police Station and on the next day he approached to the Superintendent of Police, Jalgaon. Finally, respondent-complainant has filed private complaint before the Court. The learned Judicial Magistrate First Class, Chalisgaon by order dated 9.1.2015 on perusal of the verification statement

and also copy of the N.C. receipt annexed with the complaint, issued process against the applicant-accused for the offence punishable u/s 504, 506 of the Indian Penal Code. Hence, this Criminal Application.

4. The learned counsel for the applicant submits that, civil litigation is pending between the parties and said complaint is outcome of said civil litigation. Present applicant-original accused had instituted a RCS No.39/2014 before the Civil Judge J.D. Chalisgaon against respondent no.2-complainant for removal of encroachment and possession of immovable property. Furthermore, the applicant has also instituted the R.C.S. No.58/2014 before the Civil Judge J.D. Chalisgaon against the present respondent-complainant and two others for declaration of the ownership of the landed property. Learned counsel submits that, the applicant is the real uncle of the respondent no.2 and partition of the landed property had taken place long back in the year 1983. Learned counsel submits that in the backdrop of the aforesaid civil litigation, respondent no.2 has filed false criminal complaint against

applicant.

5. Learned counsel for respondent no.2-original complainant submits that, in the Court premises the applicant-accused has abused the respondent-complainant in filthy language and, also given threat to kill. Learned counsel submits that the applicant-accused has instituted various civil suits and respondent-original complainant has not instituted any such suit as such. Learned counsel submits that, the allegations made in the complaint prima facie discloses the offences punishable u/s 504, 506 of the Indian Penal Code and the learned Magistrate, has, therefore, rightly taken cognizance and issued process against the applicant-accused for the aforesaid offences.

6. I have also heard the learned APP for the State.

7. On careful perusal of the complaint, I find that, prima facie case is made out for issuance of the process against the accused. Though, civil litigation is pending between the parties, it appears from the allegations

made in the complaint that, on the day of incident in the Court premises the applicant-accused abused the respondent-complainant in filthy language and further given him a life threat. On the same day, respondent-complainant has approached to the concerned police station and lodged the complaint, however, no cognizance thereof was taken by the police. The learned Magistrate has also recorded in the order of issuance of process that, respondent-complainant has produced copy of the N.C. receipt alongwith the complaint. The learned counsel for the applicant submits that, the applicant-original accused is 65 years of age, whereas, the respondent no.2-complainant is 50 years old and, therefore, there is no possibility of having committed such an offence as alleged in the complaint. I do not find any substance in the said submission. For making the abuses in filthy language and giving a life threat, the old age could not have been a criteria.

8. In view of the above discussion, I do not find any substance in this criminal application. Criminal Application is thus liable to be rejected. Needless to

state that, the observations made herein are restricted to the extent of present criminal application and the learned Magistrate has to decide the said pending criminal case on its own merits, uninfluenced by the above observations. Hence, order.

O R D E R

Criminal Application is hereby rejected.

(V.K. JADHAV, J.)

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