

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 76/2016

Mr. Prabhakar S. Nagvekar,
Aged 62 years,
Indian National,
R/o H.NO. 75/1, Agarwada,
Pernem, Goa.

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Petitioner

Versus

1. State of Goa,
as represented by
Officer-In-Charge,
Panaji Police Station,
Panaji, Goa.
2. Public Prosecutor,
High Court Bldg., Altinho,
Panaji, Goa.

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Respondents

Shri S. Saudagar, Advocate for the petitioner.

Shri S. R. Rivonkar, Public Prosecutor for the respondents.

CORAM : F.M.REIS & NUTAN D.SARDESSAI, JJ.

Dated : 11th July,2016.

ORAL JUDGMENT : (PER NUTAN D. SARDESSAI, J.)

1. Heard Shri S. Saudagar, learned Advocate for the petitioner and
Shri S. R. Rivonkar, learned Public Prosecutor for the respondents.

2. Rule.

3. Shri Rivonkar, learned Public Prosecutor waives service on behalf
of the respondents.

4. Shri S. Saudagar, learned Advocate for the petitioner submitted that the petitioner had lodged the complaint before the respondent no.1 stating therein that Ms. Vinita Vithoba Bagli had while applying for the post of a Librarian to the Directorate of Arts and Culture had submitted a forged copy of the Employment Exchange Card bearing registration no.7941/2006. The said card was actually that of one Sandesh Melekar. She had forged and used the copy of the said identity card making alternations therein and secured employment on that basis. She had submitted the Residence Certificate issued by the Joint Mamlatdar, Pernem again obtained through misrepresentation and which was cancelled by the Mamlatdar of Pernem by the order dated 11/05/2010.

5. She had committed an offence of forgery and the Officers of the Directorate of Arts and Culture were also involved in the conspiracy to commit the offence. The original holder of the Employment Exchange Card bearing the registration no.7941/2006 had filed the complaint before the respondent no.1 against Ms. Bagli but it was later on withdrawn by him. The petitioner had approached the Superintendent of Police when the respondent no.1 did not investigate into the complaint filed by the petitioner and thereafter approached the Judicial Magistrate First Class, Panaji by his application under Section 156(3) of Cr.P.C. seeking directions to register an F.I.R. when the Superintendent of Police did not take any action in the matter. This application too was dismissed by the learned Judicial Magistrate by the

order dated 15/09/2014, assailed in the revision before the Sessions Judge, North Goa and which too was dismissed.

6. The petitioner therefore maintained the petition on the grounds that the complaint lodged by the petitioner clearly and ex-facie disclosed an offence of forgery and non registration of an F.I.R. and not conducting investigation was against the principles of law and natural justice and in violation of the dicta laid by the Apex Court in **Lalita Kumari V/s. Government of U.P.** [(2014) 2 SCC 1]. The respondent no.1 was under an obligation to conduct the investigation and inquiry into the matter when a cognizable offence was brought to his notice. The learned J.M.F.C. had misguided herself in dismissing the application under Section 156(3) of Cr.P.C. by holding that the petitioner was under an obligation to produce the evidence of forgery from the Employment Exchange.

7. The learned J.M.F.C. had failed to appreciate that the respondent no.1 had neither appeared nor filed any reply denying that the petitioner had reported the commission of a cognizable offence. The learned Additional Sessions Judge erred in dismissing the revision application. The petitioner was therefore entitled to a writ, direction or order in the nature of mandamus to direct the respondent no.1 to register an F.I.R. and to conduct the investigation into the complaint dated 09/07/2012 filed against Ms. Vinita Bagli at the Police Station of the respondent no.1. Shri Saudagar, learned Advocate came to be

heard on behalf of the petitioner and Shri S.R. Rivonkar, learned Public Prosecutor who waived notice on behalf of the respondents.

8. It is apparent from the material produced on record that there was no jurisdictional error committed by the learned Additional Sessions Judge and even otherwise from the material on record there were no ingredients of the offence of forgery shown to have been committed by the said Ms. Bagli at the instance of the petitioner. The purported identity card issued by the Employment Exchange produced on record bearing registration no.7941 /06 shows that it was issued in the name of one Sandesh Melekar unlike the other identity card bearing the same registration number bearing no name contrary to the claim of the petitioner that it had been forged by the said Ms. Bagli. Moreover the person in whose name the Employment Exchange card bearing registration no.7941/06 stood had himself written to the Superintendent of Police, North Goa seeking action as no action was taken by the respondent no.1 and the authorities of the Directorate of Arts and Culture.

9. That apart the learned J.M.F.C. had dealt with the application under Section 156(3) of Cr. P.C. at the instance of the petitioner and the learned J.M.F.C. had recorded her findings that he had not produced any evidence or any Notification from the Employment Exchange that the card produced by her was forged. Besides he had failed to show that there was a cognizable offence committed by the

said Ms. Bagli and in that view of the matter dismissed the application. The learned Additional Sessions Judge while dealing with the criminal revision assailing the order of the learned J.M.F.C. concurred with the findings recorded by the learned J.M.F.C. that the petitioner was required to show the commission of a cognizable offence to take cognizance under section 156(3) of Cr. P.C. and ultimately dismissed the revision. The petitioner has thus failed to show any error in the order passed by the learned Additional Sessions Judge and more importantly that the ingredients of forgery were at all made out for the Courts below to take cognizance. There is no reason to interfere with the findings rendered by the learned J.M.F.C. and the learned Additional Sessions Judge and therefore we pass the following :

O R D E R

- 1) Rule is discharged.
- 2) The petition stands dismissed.

NUTAN D.SARDESSAI, J

F.M. REIS, J

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