

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2115 OF 2014

The State of Maharashtra
Through, (Dy. Executive Officer, Z.P.)
Zilla Parishad Compound, Solapur

.....Petitioner

V/s.
Shri. Arshad Khan Pathan,
Age : Adult, Occu. Govt. Service
R/o. M.S.E.D.C.L, Co.,
Juni Mill Compound, Solapur

.....Respondent
(Orig. Accused)

* * * * *

Mr. A.S. Shitole, APP for the petitioner.

Mr. Madhav Kulkarni i/by. M.Y. Thorat, Advocate for the respondent.

Coram :- Smt. R.P. SondurBaldota, J.

6th January, 2016.

P.C. :-

- 1). This petition challenges the order dated 20th February, 2014 by which the Additional Sessions Judge, Sholapur allowed the Revision Application filed by the respondent and quashed the process issued by the Learned Magistrate in STC No. 2928/2013 filed on 6th June, 2013 for the offences punishable under Sections 174, 187 Indian Penal Code. At the relevant time, the complainant

was working as Deputy Executive Officer, Zilla Parishad and the respondent was the Executive Engineer in M.S.E.D.C.L., Company, Solapur. The complainant under the chairmanship of Collector, Sholapur formed a Selection Committee, Sholapur to select the employees of Zilla Parishad, Sholapur. The employees to be selected were Supervisor, Agriculture Officer, Extension Officer etc. The written examination of the candidates was over and oral interviews were scheduled on 4th June, 2013 at 10.00 a.m. in Zilla Parishad, Sholapur. It appears that, on the earlier day i.e. 3rd June, 2013 the complainant intimated the respondent to attend the Selection Committee by a telephonic message. When he did not attend it, the complaint came to be filed against him by the complainant in the trial Court for the offences punishable under Sections 174 and 187 Indian Penal Code. The Learned Sessions Judge has noted that, circulars of the Zilla Parishad require an intimation of 15 days to any public servant to attend a meeting of Selection Committee. Since there was contravention of this Rule by the complainant herself, there was no fault on the part of the respondent in not attending the meeting. It was also contended by the respondent that, considering the nature of his work, before he leaves the office, he is expected to follow the service regulations of

MSEDCL, which require to obtain prior permission of supervisor before leaving their place. The telephonic intimation received by the respondent was not sufficient for obtaining the necessary permission. On these grounds, the learned Sessions Judge has held that ingredients of Sections 174 and 187 are not attracted to the facts narrated in the complaint and therefore the order of the Learned Magistrate issuing process against the respondent was not legal.

- 2). There is no dispute as regards contravention of the Circulars by the complainant and the need of prior permission for the employees of M.S.E.D.C.L. before leaving their office during the office working hours. In that circumstance, the observations of the Learned Sessions Judge are correct observations. In all probability, the complainant felt slighted, when the respondent did not obey her telephonic instructions which resulted into the complaint. There is no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)