

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL MISCELLANEOUS APPLICATION NO. 150 OF 2016
IN
CRIMINAL WRIT PETITION NO. 439 OF 2014

1. Smt. Mohini Naraindas	}	
Kamwani	}	
Age 81 years, resident of	}	
101, Mauli Society, A Wing,	}	
Plot No. 29C, Sector No. 4,	}	
Vashi, Navi Mumbai 400703	}	
	}	
2. Mr. Dilip Naraindas	}	
Kamwani	}	
Age 61 years, resident of	}	
Mauli Society, A Wing,	}	
Plot No. 29C, Sector No. 4,	}	
Vashi, Navi Mumbai 400 703	}	Applicants

versus

1. Laxman Bhausahab Kale	}	
Deputy Superintendent of	}	
Police, CID, Crime, Pune	}	
	}	
2. R. B. Sardesai	}	
Assistant Commissioner of	}	
Police,	}	
Deputy Superintendent of	}	
Police,	}	
Head Quarters, Sangli	}	
District	}	
	}	
3. State of Maharashtra	}	Respondents

WITH
CRIMINAL MISCELLANEOUS APPLICATION NO. 234 OF 2016
IN
CRIMINAL WRIT PETITION NO. 427 OF 2014

1. Smt. Mohini Naraindas	}
Kamwani	}
Age 81 years, resident of	}
101, Mauli Society, A Wing,	}
Plot No. 29C, Sector No. 4,	}
Vashi, Navi Mumbai 400703	}
2. Mr. Dilip Naraindas	}

Kamwani }
 Age 61 years, resident of }
 Mauli Society, A Wing, }
 Plot No. 29C, Sector No. 4, }
 Vashi, Navi Mumbai 400 703 }

Applicants

versus

1. Purushottam Karad }
 Ex-DCP Vashi, Zone - 1, }
 Presently Addl. SP, }
 Amravati SP Office, }
 Amravati, Maharashtra }

2. Ahmad Javed }
 Ex-Navi Mumbai Police }
 Commissioner, }
 Presently Ambassador of }
 Saudi Arabia, B-1, }
 Diplomatic Quarter, }
 P. O. Box 94387, }
 Riyadh - 11693, }
 Saudi Arabia }

3. Advocate Madhav Thorat }
 3-A/B/C/D, 2nd floor, }
 Building No. 35, Ambalal }
 Doshi Marg, Behind Dena }
 Bank, Share Market Branch, }
 Fort, Mumbai 400 023 }

4. Advocate Amit Desai }
 133, Jehangir Bldg., M. G. }
 Road, Nr. Globus Showroom, }
 Fort, Mumbai - 400 001 }

5. Advocate Shirish Gupte }
 2nd floor, Old Oriental }
 Building, Opp. HSBC Bank }
 Fountain, Fort, Mumbai }

6. Advocate V. M. Thorat }
 3-A/B/C/D, 2nd floor, }
 Building No. 35, Ambalal }
 Doshi Marg, Behind Dena }
 Bank, Share Market Branch, }
 Fort, Mumbai 400 023 }

Respondents

Smt. Mohini Naraindas Kamwani -
applicant no. 1 present in person.

Mr. Dilip Naraindas Kamwani - applicant
no. 2 present in person

Mr. V. M. Thorat i/b. Mr. Pratap Patil for
respondent nos. 1 and 2 in Cri. APPW/
150/2016.

Mr. S. K. Shinde - Public Prosecutor with
Mr. J. P. Yagnik - APP for respondent
State.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

**Reserved on 16th June, 2016
Pronounced on 21st July, 2016**

JUDGMENT :- (Per S. C. Dharmadhikari, J.)

1. The applicants to this criminal application (Criminal Miscellaneous Application No. 150 of 2016) are the original respondents in Criminal Writ Petition No. 439 of 2014. That was filed by respondent nos. 1 and 2 to this application. The prayer in that application was to quash and set aside an order passed by the Judicial Magistrate, First Class, Vashi dated 1st February, 2014 in Other Miscellaneous Application No. 91 of 2014, by which, it was directed that the concerned police station shall investigate the crime as against four accused, two of whom were the petitioners in Criminal Writ Petition No. 439 of 2014.

2. It is common ground that this writ petition together with Criminal Writ Petition No. 427 of 2014 and the criminal applications therein were heard and decided by a Division Bench of this court, to which, one of us (S. C. Dharmadhikari, J.) was a party.

3. By a detailed judgment and order and after hearing all the parties including the present applicants, both petitions were disposed of as under:-

“64. With this clarification, we conclude this judgment. Hence, in the light of the above discussion, the following order:-

(i) Rule in Criminal Writ Petition No. 427 of 2014 is made absolute in terms of prayer clause (a).

(ii) Rule in Criminal Writ Petition No. 439 of 2014 is discharged and the Writ Petition is dismissed.

(iii) Criminal Application Nos. 50 and 51 of 2015 do not survive in the light of our above conclusion.

(iv) We clarify that our observations and conclusions are *prima facie* and tentative and shall not influence the criminal Court while proceeding and trying the criminal case.

(v) All contentions on the requirement of sanction and on merits of the charges, of both sides, are kept open.”

4. Thus, Rule in Criminal Writ Petition No. 439 of 2014 was discharged and that writ petition was dismissed. The other

Criminal Writ Petition No. 427 of 2014 was allowed and the order of the Judicial Magistrate, First Class referred above was quashed only to the extent of the petitioners therein.

5. Now, by this application, the applicants are seeking the following reliefs:-

“24. a) Admit and allow the present Application;

b) Issue Directions to all the 8 Contemnors Chief Secretary Maharashtra, Chief Minister/Home Minister/Law Minister, Government, DGP, Navi Mumbai Police Commissioner and Vashi Police to URGENTLY Register the FIR against Our Original Accused **SPI Laxman Kale & Raosaheb Sardesai** in 24 Hours, as Ordered by this Hon. Court vide its Order dated 16-10-2015 in Crim. WP 439/2014 and send the Compliance Report to this Hon. Court in next 24 Hours;

c) Take *suo moto* cognizance of **Gross, Willful & Deliberate Contempt of Court - of Hon. SC and this Hon. Court** committed by ALL the 8 Contemnors and proceed against and issue Contempt Notices to all 8 of them under provisions of Contempt of Court's Act as the Maharashtra Authorities have done **REPEAT Contempt of Court again and again** and the Authorities have been **Habitual Contemnors** in my Cases, despite the Petitioners Cautioning them that they were doing Gross, Willful & Deliberate Contempt of Court - of Hon. SC and this Hon. Court - earlier also and vide their 3 Notices - Hence Petitioners request for an order punishing them with imprisonment and/or fine in accordance with law;

d) Issue clear Directions to Contemnor Vashi Police and All the Contemnors that Sanction is Not Required based on ENOUGH Prima facie Documentary Evidences on record that the Accused have Filed False case, done Forgery in Arrest forms and Station Diary, filed False Affidavits, etc.”

6. At the outset and before proceeding further, it is fairly stated that after this application was filed, the concerned police

station has registered FIR on 18th May, 2016 against accused Laxman Kale and Raosaheb Sardesai in terms of the order passed on 16th October, 2015 in Criminal Writ Petition No. 439 of 2014.

7. Thus, the essential grievance of the applicants and regarding non compliance with the orders and directions of this court has been redressed albeit belatedly.

8. Now, the prayer clauses (c) and (d) are in the nature of contempt.

9. For appreciating that part of the grievance and the request to initiate contempt proceedings against the respondents, we would have to note some basic facts.

10. A private complaint was filed in the court of Judicial Magistrate, First Class, CBD Belapur, being regular criminal case and Other Miscellaneous Application No. 91 of 2014. The applicants before us are the original complainants. It is their case that applicant no. 1 resides with her unmarried son, namely, applicant no. 2 and a mentally challenged daughter, namely, Kanta. The second daughter of applicant no. 1 Sumita Karani resides in Vashi along with her husband. Sumita Karani has three sons, one residing at Andheri, one at Dubai and one in USA. Sumita Karani is stated to have sold her Vashi flat and her son

has also sold the Andheri flat and therefore, the applicants are not in a position to ascertain the whereabouts of this second daughter.

11. There is a son by name Manoj Karani of the second daughter Sumita. He is residing at Dubai. He is the grandson of applicant no. 1. He approached applicant no. 1 with an intention to forcefully obtain her signatures on some documents and her bank details. Though the relations with Sumita and her children and applicant no. 1 are strained and they have been severed by applicant no. 1 in 2007 itself, the applicants were surprised that the grandson of applicant no. 1 could approach her in this manner. That is how the complainants/applicants protested and the said Manoj Karani left the premises. However, his threats and intimidation continued through various means. It is the case of the applicants that they had approached original accused no. 2 on 24th December, 2010 to register a case of criminal intimidation against her grandson, but only a non-cognizable case was registered. The complainants alleged that Manoj Karani visited their house on several occasions threatening them with dire consequences and by allegedly stating that he has links with the underworld and one Hiten Sampat, who has criminal antecedents. It is in these circumstances that the matter was followed up by

the applicants with accused no. 2, but they were informed that the dispute is civil in nature and therefore, the police cannot render any assistance to them. It is the applicants'/original complainants' case that such an approach of the police surprised them though the concerned police officer was repeatedly informed by the complainants that their life is in danger in view of the intimidation and continued threats from Manoj Karani.

12. When no steps were taken, complainant no. 1 addressed a letter to the Chief Minister of the State explaining her grievance and the harassment faced by her. As a consequence of this letter, complainant no. 1 was approached by the officers of Vashi Police Station and they promised complainant no. 1 that appropriate action will be taken. They asked her to give an undertaking that they would not sit on any protest fast. Even after all this, since no action was taken, complainant no. 1 addressed a letter to the Senior Police Inspector of Azad Maidan Police Station and sought permission to sit on "peaceful hunger strike" on 16th January, 2012. This was the protest against the inaction of the police. After this intimation, complainant no. 1 indeed commenced her hunger strike at the said concerned police station. She was stationed there for three days. She addressed letters to various authorities informing them that she intends to continue her

hunger fast for an indefinite time, till justice is done. After this step by complainant no. 1, a high ranking officer of Azad Maidan Police Station visited her and convinced her that action will be taken on her complaint and she should not take any steps that would be considered contrary to the law of the land. That is how the fast was called off and a written undertaking was also handed over.

13. It is thereafter that the real grievance starts and that is two police officers came at the residence of the complainants in the morning of 25th January, 2012 and though the complainants were allegedly informed that the officials had visited their residence to register a FIR on their complaint and that they would have to accompany them to the police station, later on, it is found that the intention was otherwise. The complainants were told to sit inside the police station without any information or explanation and without any food or water. Later on, they were carried to the court premises by few police officers including lady police official and were asked to sit on a bench outside the court room of the Judicial Magistrate, First Class. At around 4.45 p.m. on that day, the complainants were produced before the learned Magistrate and it was only at that stage that they realised that they were produced as accused. They were shown as arrested. They were

remanded to judicial custody for three days. All this happened despite complainant no. 1 had called off her protest. Thereafter, there are other allegations with regard to this wrongful arrest. Later on, they came to be released. After their release, they made the alleged complaint with senior police officials by narrating the above instance of wrongful arrest. That is how they filed a writ petition being Criminal Writ Petition No. 1857 of 2012 in this court. On this writ petition, a detailed judgment was delivered by this court and the criminal writ petition was partly allowed. The respondents to that writ petition were directed by this court to pay compensation of Rs.3 lacs each for their illegal arrest and detention. In pursuance of the Division Bench judgment dated 13th June, 2013 and the liberty granted thereunder, the petitioners availed of the remedy of filing a complaint in the court of competent jurisdiction. That is how the subject criminal case/miscellaneous application was filed and on which, an order was passed by the Judicial Magistrate, First Class on 1st February, 2014.

14. That order was impugned in two writ petitions, namely, Criminal Writ Petition No. 427 of 2014 and Criminal Writ Petition No. 439 of 2014. The present applicants filed a criminal applications being Criminal Application No. 50 of 2015 in

Criminal Writ Petition No. 427 of 2014 and Criminal Application No. 51 of 2015 in Criminal Writ Petition No. 439 of 2014. All these proceedings were heard together and a Division Bench, to which, one of us (S. C. Dharmadhikari, J.) was a party, passed, after hearing the counsel appearing for the petitioners on those petitions and the applicants in person before us, the order which we have reproduced hereinabove.

15. In the present application, what is alleged is that firstly, the orders and directions as reproduced above were not complied with as the FIR was not registered. Then, it is urged that contrary to the findings and conclusions in this judgment, the respondents to this criminal application and the proposed contemnors have sought sanction to prosecute the police officials/accused to the criminal case. It is submitted that though the issue of sanction is already raised and squarely dealt with in the judgment delivered by the Division Bench in the aforesaid criminal writ petitions, still, this issue of sanction was raised to dodge the registration of the FIR.

16. It is then contended that the police have done forgery in arrest form and station diary entries. They also filed false certificates. This court has already rendered a conclusive finding that the detention and arrest of the applicants is illegal and

wrongful, still, what is being now projected is that the accused police officials were acting in discharge of their official duties and that would necessitate the sanction to prosecute them.

17. It is submitted that the facts as set out from para 10 of the present application are undisputed. If these are the basis on which the order directing registration of FIR came to be passed, then, now these events, which are admitted, cannot be questioned and by a back door and oblique method.

18. Then, it is submitted that there are several vital documents such as arrest form, which would evidence the factum of arrest. These could not be produced by the applicants when the criminal writ petitions of the accused police officials were heard. It is submitted that the station diaries are forged and our attention is invited to Annexure 'A-23' in the Supreme Court Special Leave Petition (Cri) No. 6534 of 2013 and which document is also annexed as Annexure 'H' to the present application. The instances of alleged forgery in the station diary have been highlighted at pages 11 and 12 of the criminal application and copies of the relevant documents are annexed. It is in these circumstances and when the accused police officials and the State was directed to pay compensation to each applicant in the sum of Rs.3 lacs that we must proceed on the footing that the accused

police officials have committed criminal contempt. They have deliberately and mischievously tried to project a different version in the Hon'ble Supreme Court by questioning the admitted facts of the applicants' wrongful and illegal arrest. Therefore, a case of criminal contempt is made out.

19. That is not only made out from the affidavit filed by the two accused police officials, but what emerges from the averments at page 14(iii) onwards of this application, is that even the other senior police officials whose writ petition was allowed by this court and the order of the learned Judicial Magistrate First Class, Vashi was set aside to that extent, have joined and conspired to mislead this court. Reliance is placed upon certain directions to one of the senior police official to take cognizance of the complaint of applicant no. 1 and avoid a situation where she will sit on protest fast. This means, such police officials, as were named as accused by the applicants/original complainants, but they have not been so arrayed are prima facie guilty. They are guilty of the offences alleged and of criminal contempt as well. It is in these circumstances that the applicants, by relying on the grounds in the application, claim the aforementioned reliefs.

20. Since the applicants are appearing in person, we have been lenient towards them. We proceeded on the footing that their

understanding of law, the consequences that flow from final judgment and order of the court, the contempt jurisdiction and its ambit and scope is limited. Therefore, we were indulgent and granted sufficient time to them to canvas oral submissions. We have also taken on record certain compilations setting out the written arguments. We take down their written notes of arguments, as tendered, seriatim, as under:-

“PURSIS

Written Notes of Argument

(i) As certain developments have taken place after the applicants filed the application on 21-3-2016 in the Registry; hence we humbly request the Hon. Court to please to take the following on record as crucial additional materials facts, reasons and grounds – amongst other grounds, etc. raised here and/or in my main application and in all my Notices served to the Respondents and the 8 contemnors, each raised and contended without prejudice to the other:-

(ii) New multiple contempts of courts – Supreme Court, Bombay High Court and JMFC, Vashi Court + one more criminal conspiracy no. 3 and fraud on court – to obtain a favourable order – by respondent nos. 1 and 2 and the 8 contemnors:-

(iii) After our filing the above application, Vashi Police IO Ajit Gondhale, under a criminal conspiracy with

respondent nos. 1 and 2 and all the 8 contemnors, sent us one more shocking letter dated 11th April, 2016 telling us that the said Bombay High Court ordered FIR will not be registered as the police have filed a report in Vashi Court (!?) that now – we have to get the sanction!!!

Annexed and marked as Exhibit “A” is a copy of the said letter dated 11th April, 2016 of Vashi IO.

(iv) We approached Vashi Court and got the certified copies from Vashi Court and we were shocked to find that the police has not filed a report in Vashi Court; but respondent nos. 1 and 2 namely ex-Vashi SPIs Laxman Bhausheb Kale and Raosaheb Sardesai have yet again made mockery of justice and have filed Criminal Application No. 395 of 2016 on 11th April, 2016 in JMFC Vashi Court – asking the lower court to grant them a stay order against registration of FIR against them – which is ordered by Bombay High Court.

Annexed and marked as Exhibit - “B” is a copy of the said Criminal Application No. 395 of 2016 filed by respondent nos. 1 and 2 on 11th April, 2016 in JMFC Vashi Court.

(v) This means – they are asking JMFC Vashi Court Magistrate – Also – to do contempt of Bombay High Court and Supreme Court.

(vi) Respondent nos. 1 and 2 are openly playing yet another fraud on the court by not annexing the said

Bombay High Court order dated 16th October, 2015 in their Criminal Writ Petition No. 439 of 2014 in Vashi Court – On prior sanction not required – but citing the over ruled 2015 Bombay High Court judgment in Criminal Writ Petition No. 4765 of 2014 and 8 other petitions – which was decided – before on 9th October, 2015 – so this judgment of Hon'ble Justice Ranjit More and Ketkar is *per incurium* and hence not applicable.

(vii) Moreover, respondent nos. 1 and 2 have done forgery and fraud – and arrested us and got us jailed in a false case – which is not the matter in the said 2015 Bombay High Court judgment in Criminal Writ Petition No. 4765 of 2014 and 8 other petitions – hence that judgment is not applicable in our case.

(viii) Basically – as per the law of the land and also law laid down by Hon'ble Supreme Court and various High Courts in catena of judgments and the ratios therein – it is not the official duty of any public servant to – file a false case, do forgery in records as in our case done by my accused SPIs SPI Laxman Kale and Raosaheb Sardesai and that we have already submitted various Supreme Court and other citations on sanction not required in such cases – which have also been quoted by Bombay High Court in its said order dated 16th October, 2015.

(ix) Moreover, we have also submitted a copy of this Hon'ble Supreme Court judgment as Exhibit “F” in our main application – in Inspector of Police and Ors. vs.

Battenapatla Venkata Ratnam and Anr. on 13th April, 2015 - Criminal Appeal No. 129 of 2013 clearly explaining that this Supreme Court judgment clearly states that sanction is not required - where officers indulge in fabrication of records, etc. which cannot be said to be "in discharge of their official duty" and the stage for sanction is no more res integra after the said above Supreme Court judgment of 2015 - as it overrules all the previous years' Supreme Court judgments and the ambiguity, if any, therein.

(x) As per the law - respondent nos. 1 and 2 have to challenge the said Bombay High Court order in the higher court i.e. Supreme Court - so under which provisions of law - have they filed the said application in the lower court - for the stay order against the higher court (Bombay High Court) order.

(xi) Under which provisions of law - has the learned Vashi Magistrate even allowed the accused to file the said application in the lower court - for the stay order? - Does the accused have the right to intervene in the same JMFC Court in a case under section 156(3) Cr. P. C. and ask for the stay order - before the charge-sheet is filed?

(xii) We approached the learned Vashi Magistrate and told her in detail that the respondent nos. 1 and 2 have not annexed the Bombay High Court order dated 16th October, 2015 and they are playing a fraud on the court and that we have already filed a Criminal

Application No. APPW 150 of 2016 in Criminal Writ Petition No. 439 of 2014 - for willful disobedience of order of Bombay High Court ordered to register FIR against them and the matter is kept for hearing on 25th April, 2016 in Bombay High Court - so please do not grant them any stay order as it will amount to contempt of Bombay High Court and Supreme Court - hence we want to file the affidavit in reply in the said Application No. 395 of 2016 filed by respondent nos. 1 and 2 - but the learned Magistrate told us - "The matter is kept for argument on 16th May, 2016 - Have I issued you any notice to file your say? - No - Have I passed any order in that? - No - I have to see whether it is maintainable or not"

(xiii) Why did Vashi IO and all the 8 contemnors Maharashtra authorities - fool us for 5 months from 16th October, 2015 - that Vashi Police has applied for sanction - even after - I have served 4 notices of contempt of court and these criminal conspiracies to all of them?

(xiv) Vashi police and respondent nos. 1 and 2, under a criminal conspiracy with all the Maharashtra authorities (the 8 contemnors) through Vashi IO, are now asking us to get the sanction - because in our 4th notice dated 27th March, 2016 to all of them I informed them all that - after 3 months it has become deemed sanction - as per the law laid down by Hon'ble supreme Court and the ratio in Subramanian Swamy vs. Manmohan Singh 2012 (vol. 1) SCC (Crim.) 104, - that

if sanction is not granted in 3 months sanction will be deemed to have been granted. I also cited 3 cases laws of 3 High Courts on prosecution of public servants based on the deemed sanction – after 2012 Supreme Court subramanian Swamy judgment.

(xv) This amounts to – clear willful, deliberate, gross – multiple contempts of Supreme Court + Bombay High Court + JMFC Vashi Court + fraud on court and abuse of court process – by respondent nos. 1 and 2 – in a criminal conspiracy with – Vashi IO and all the Maharashtra authorities the 8 contemnors – namely NM CP, DGP, Home Department officials, CM + HM + LM, the state of Maharashtra – As the authorities are all my original accused.

(xvi) This also clearly proves – that instead of protecting me 81 year old freedom fighter's widow and my life and liberty and punishing the 2 accused guilty cops respondent nos. 1 and 2 – the State and all Maharashtra authorities the 8 contemnors – are conspiring with respondent nos. 1 and 2 – to inflict further legal injuries to me, do multiple contempts of all the courts, play fraud and abuse court process and to delay the matter through such illegal and prolonged litigations – where I suffer waste of time and money – to cause me mental, physical and financial torture and more legal injuries.

(xvii) Another proof of – involvement of the State and all Maharashtra authorities the 8 contemnors

including the CM + HM + LM, DGP, NM CP, Police and Home Department officials - in the criminal conspiracy is that - respondent nos. 1 and 2 have been given president's medal and promoted by all Maharashtra authorities the contemnors - as DSP - even through 3 orders of FIR of Supreme Court + Bombay High Court are issued against them since 2013?

(xviii) One more proof of - involvement of the State and you all Maharashtra authorities including the CM + HM + LM, DGP, NM CP, Police and Home Department officials - in the criminal conspiracy is that - Mr. Swadheen Kshatriya, Chief Secretary of Maharashtra has forwarded all my notices of non registration of FIR and contempt of court by authorities - to the Home Department by e-mails and copies sent to me by e-mail and - Law and Judiciary Department, Government of Maharashtra has also sent me a copy of letter dated 2nd April, 2016 they have sent to the Under Secretary, Home Department - forwarding my notice dated 27th March, 2016 - about Vashi Police not registering my FIR - for action on that - but even after this - all the authorities the 8 contemnors have not registered the said FIR - ordered by Bombay High Court?"

21. Thus, the applicants are primarily aggrieved by the delay in registering the FIR. It is alleged that the delay is deliberate and intentional. To urge that by raising irrelevant and frivolous issues totally unconnected with the main grievance, the

implementation and enforcement of this court's order is postponed.

22. Then, it is the grievance of the applicants that this court allowed Criminal Writ Petition No. 427 of 2014 and partly set aside the order of the Judicial Magistrate, First Class reproduced above, however, one of the petitioners therein Mr. Ahmed Javed, who was then posted as the Commissioner of Police, Navi Mumbai has later on earned several promotions and on the eve of his retirement as the Commissioner of Police, Mumbai, he was appointed as Indian Ambassador in Saudi Arabia. This official has also misused his powers and authority. That was allowed to be misused and he was rewarded as above. That is why the others, who are named in the written arguments, are equally guilty. In the note of arguments/written submissions tendered, before this order was pronounced, the applicants have also named the advocates as guilty and part of a larger conspiracy. The prayers in Criminal Application No. 234 of 2016 in Criminal Writ Petition No. 427 of 2014 read as under:-

- “a) Admit and allow the present Application;
- b) Issue Directions to Vashi Police to URGENTLY register the FIR against Respondent No. 1 and 2 Purushotam Karad and Ahmad Javed in 24 Hours and send the Compliance Report to this Hon. Court in next 24 Hours;

c) Take *suo moto* cognizance of Gross, Willful & Deliberate Contempt of Court committed by ALL the Respondents/Contemnors and Initiate *Suo Moto* Contempt Proceedings against them under provisions of Contempt of Court's Act 1971 and issue Contempt Notices to All the Contemnors as they have been Habitual Contemnors in my Cases, despite the Applicants Cautioning them that they had done Gross, Willful & Deliberate Contempt of Court vide their Notices to them and asking them to approach the Hon. Court and get the "FIR Quashing" Order dated 16-10-2015 Cancelled but they have not responded – Hence Petitioners request for an order punishing them with imprisonment and/or fine in accordance with law under provisions of Contempt of Court's Act 1971;

.....”

23. After perusing these criminal applications and all annexures thereto so also all the pursis/written arguments tendered from time to time, we are of the opinion that the applicants are trying to re-argue Criminal Writ Petition No. 427 of 2014 and Criminal Application No. 50 of 2015 therein. The Bench had extensively heard these applicants at the hearing of the writ petitions covered by our judgment and order dated 16th October, 2015. We have allowed Criminal Writ Petition No. 427 of 2014. If the applicants were aggrieved by that part of the judgment and order delivered by the Division Bench of this court, then, their remedy was to challenge that order in a higher court. Just as these applicants are blaming the unsuccessful petitioners in Criminal Writ Petition No. 439 of 2014, namely, Mr. Laxman Kale and Raosaheb Sardesai, against whom now a FIR is registered, of defeating and frustrating the orders and directions

of this court by inventing a plea of sanction and other irrelevant issues by urging that the remedy of these two police officials was to challenge the judgment delivered by the Division Bench in their Criminal Writ Petition No. 439 of 2014 in a higher court, we are of the view that the same principle would apply to the applicants' request as well. We do not think that in the facts and circumstances and now that the FIR is registered, any action is necessitated, particularly in contempt. We must remind the applicants that the power of contempt is vested in this court. It is a matter between the court and the proposed contemnors. The role of the applicants is over after bringing to the notice of this court the alleged contempt. Whether the acts as alleged fall within the definition of the term "criminal contempt" has to be examined by the court. The court is aware of the definition of the term "criminal contempt" as defined in section 2(c) of the Contempt of Courts Act, 1971. Although we do not approve of tactics to delay the implementation and enforcement of this court's judgment in the writ petitions and registration of the FIR, we do not think that by such act alone we need to proceed in contempt. We, therefore, do not take cognizance of the request made by the applicants and dismiss this Criminal Application No.234 of 2016 as well.

24. We dismiss it also for another reason, because in the Division Bench judgment, it is amply clarified that if during the course of the proceedings before the trial court any material is brought on record, which would enable the trial court to proceed against the petitioners in Criminal Writ Petition No. 427 of 2014, then, the judgment and order of this court in the above criminal writ petition will not preclude the trial court from exercising such powers as are permissible in law, including arraying or adding these persons as accused. Therefore, any act of omission and commission on their part and as highlighted in the application by the applicants and amounting to a punishable offence can be substantiated by them by bringing forward such materials as are contemplated in law to proceed against them. We have no doubt in our mind that if the power of the trial court to array additional persons as accused is invoked and with adequate and relevant materials, the trial court will pass such orders as are permissible in law. Therefore, it is not necessary to take any action much less in the nature of criminal contempt.

25. While we dispose of this application, we equally deprecate the tendency of the applicants before us to make allegations against high dignitaries, including the Prime Minister of India, Home Minister of India, Chief Minister of Maharashtra, the Chief

Secretary of the State etc. The applicants must understand and appreciate that irrespective of the incumbents in office and holding these posts, the dignity and status of the posts themselves needs to be safeguarded and protected. In a democratic set up and when the representatives are elected by people themselves, then, if parties like the applicants have grievances against the style of functioning of the Government or any officials thereof or the holders of these posts, they have to take recourse to law. They must not, merely because of their right to approach a court of law to seek redressal of their grievances, indulge in targeting high dignitaries by naming them as contemnors or guilty of any crime. Eventually, the applicants must realise that the order of this court directs certain public officers to be proceeded against in criminal law. It is a direction to a particular official in-charge of a police station. There is no direction to the Prime Minister, Chief Minister etc. It is unfortunate, to say the least, that resort to such a course taken that defeats the applicant no. 1's position as freedom fighter and responsible citizens. They should not undermine the prestige and reputation of these posts. Eventually, some of the posts are a creature of the Constitution of India. These offices, therefore, have constitutional status. The criticism of the incumbents in office in a democratic set up and that too by casting aspersions and attributing political motives to

them does not necessarily mean that this court must take any note of the same. The applicants cannot utilize the forum of the highest court in the State to level allegations against all and everybody by seeking to implead or otherwise involving them in legal proceedings. We, therefore, take no cognizance of the allegations against these high dignitaries.

26. It is high time that the applicants realize that there is a definite place for sobriety and restraint in court proceedings. The demeanour of the applicants and other litigants ought to be such that they only highlight the injustice caused to them by presenting all the facts and substantiating the allegations by oral submissions backed by the contents of relevant documents. The applicants must realize that the courts are meant to protect fundamental and legal rights. The courts dispense justice only in accordance with law. It is not necessary that each and every allegation and leveled by parties like the applicants against their opponents or others, including high dignitaries, must be entertained and the court must take cognizance thereof. If such allegations are not projecting a real injustice and caused on account of a breach or violation of the constitutional and legal rights, then, the court is not obliged to rule upon them. The parties like the applicants then must resort to other forums. We

hope that we have to say nothing more. The applicants and others must realize that it is the duty of every citizen of this country to duly abide by the Constitution and respect its ideals and institutions. The courts are also creatures of the Constitution. Therefore, due respect and regard for the same is but a fundamental duty of the citizens of this country. They are expected to abide by the Constitution. At the same time, they must realize that there are certain limits on the power of the courts as well. Therefore, this is not a forum which can remove all defects and deficiencies in the working of the Government and police machinery.

27. With the aforesaid observations, both the criminal applications are dismissed.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)