

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1773 OF 2014

The State of Maharashtra	...	Petitioner
vs.		
Abhimanyu Pandurang Jadhav	...	Respondent

Mr. V.B.Konde-Deshmukh, APP, for the Petitioner – State.
Mr. Sudhir Prabhu, for the respondent.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 22nd June, 2016.

P.C.

Heard. Rule. Rule returnable forthwith with the consent of the parties.

2. The State of Maharashtra being aggrieved by the Judgment and order dated 18.2.2012 passed by the Addl. Sessions Judge, Sangli, in Criminal Revision Application No. 228 of 2010, thereby quashing and setting aside the order of issuance of process passed by the Chief Judicial Magistrate, Sangli, in RCC No.318 of 2010, has filed the present Writ Petition.

3. It is submitted that the complainant one Harish Narayan Jog had filed a complaint before the Judicial Magistrate, First Class, Sangli,

alleging therein that the respondents herein have committed the offences punishable under Sections 466, 468, 470, 471 read with Section 34 of IPC. The learned Magistrate was pleased to issue directions under Section 156(3) of Cr.P.C. Pursuant to the said direction, Crime No.12/2009 was registered against the accused. On 16.4.2010, the investigating agency had filed charge-sheet.

4. It appears from the records that accused No.1 had instituted a civil suit and had placed on record one Map. It was alleged in the complaint that the said Map is a forged document. The suit was at the preliminary stage. It was the specific contention of the complainant that the forged documents are filed in a civil proceeding. The learned Sessions Judge has rightly considered that in that eventuality, it would be incumbent upon the complainant to bring it to the notice of the learned Judge seized with the civil suit that the documents filed along with the plaint are forged documents. The learned Sessions Judge, after examining the veracity and genuineness of the contentions along with the documents could have passed an order under Section 195 of the Code of Criminal Procedure. In the present case, the investigating agency could not collect the alleged document which was supposed to be forged. The learned Sessions Judge

has erroneously held that the certified copy of the forged document cannot be considered instead of the main document. It was the specific contention of the complainant that the original document is filed in the civil suit. It is in these circumstances that the investigating officer could not have given any explanation as to the whereabouts of the original documents.

5. It appears from the judgment of the revisional Court that the investigating agency had not put any sufficient efforts to carry out the investigation in a proper manner. It is specifically observed as follows :-

“Naturally, when the accused No.1 and 2 were the builders, they are supposed to possess the original. No efforts have been made to fetch the original i.e. the alleged sanctioned plan, which was initially got sanctioned. Procurement of that document was the basic requirement, in order to have comparison with the map produced before Civil Court.”

6. This Court cannot be oblivious of the fact that the revision application was filed by original accused No.4 who happens to be the officer of the Municipal Corporation of Sangli. He could not have been held responsible for any document purportedly filed by the other accused in the Civil Suit as the present respondent was not a party to the Civil Suit. The learned Sessions Judge has rightly allowed the revision application challenging the order of issuance of process after filing of the charge sheet.

The respondent herein was a public servant. It does not appear that any contention was raised before the revisional Court as to whether the sanction was necessary to prosecute the present respondent. The learned Sessions Judge has also not considered the same. The respondent has been discharged on the ground that there has been lapses on the part of the investigation and that there was no sufficient material in the charge sheet to proceed with the next stage of framing of charge.

7. The learned APP submits that discharge of co-accused has been challenged by the State by filing a separate Writ Petition.

8. The reasons assigned by the learned Sessions Court appear to be sound and justifiable and need no interference. Hence, the Writ Petition stands dismissed. Rule is discharged.

(SMT.SADHANA S.JADHAV, J.)