

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

**CRIMINAL WRIT PETITION NO. 117 OF 2006**

Balshiram Ganpat Gaikar  
Age: 45 years, Occu.: Service  
(S.P. HSP Pune Division, Khadki)  
R/o Near Raja Bungalow/A.C.P. Khadki,  
Division Office, Old Mumbai-Pune Road,  
Pune.

..PETITIONER

VERSUS

1. Vijayprakash Sidhlingappa Wadkar  
Age: 50 years, Occu.: Agriculture,  
R/o Zinganappa Galli, Latur.

2. State of Maharashtra.

..RESPONDENTS

....

Mr. Joydeep Chatterji, Advocate for petitioner.  
Mrs. Suvarna Wadkar - Tamshete, Advocate for Respondent No.1.  
Mr. G.O. Wattamwar, A.P.P. for Respondent No.2 – State.

....

**CORAM : T.V. NALAWADE, J.  
DATED : 25<sup>th</sup> JANUARY, 2017**

**ORAL JUDGMENT :**

1. The petition is filed to challenge the order dated 31<sup>st</sup> December, 2001 made by the Chief Judicial Magistrate, Latur on Exhibit 60 in R.C.C. No. 333 of 1996 and also order dated 30<sup>th</sup> January, 2006 made by the Additional Sessions Judge, Latur in Criminal Revision No. 43 of 2002. Both sides are heard.

2. The petitioner is the Accused No.1 in R.C.C. No. 333 of 1996 which is presently pending in the Court of Chief Judicial Magistrate, Latur. The order of issuance of process is made against him for offences punishable under Sections 342, 504, 506 read with 34 of the Indian Penal Code. He was working as Deputy Superintendent of Police and under his jurisdiction there was Gandhi Chowk Police Station, Latur. In the private complaint allegations are made against him that he is responsible for the illegal detention of the complainant. Allegations are made that there was illegal detention on 13<sup>th</sup> January, 1996 and also on 14<sup>th</sup> January, 1996 and that was done at the instance of present petitioner. Allegation are also made that subsequently to save his skin, one application was taken from one complainant – Mohan Jagtap and some record was created against complaint.

3. Thus there is allegation of illegal detention against present applicant. He took defence that on both days he had not visited the Gandhi Chowk Police Station and so he took defence of alibi and prayed to recall the order of issue process.

4. The submissions made and record show that order of issue of process was also challenged by filing revision. The said revision came to

be dismissed. The point of requirement of sanction under Section 197 of Code of Criminal Procedure was raised but that was not accepted. At that time also it was observed that this point can be considered during trial also if there is material in that regard. As there was some observations that if some material is there, that material can be used, present application was then moved for recalling the order of issue of process and same came to be dismissed. As defence of alibi is taken, apparently there will be no question of defence of act done during discharge of official duty.

5. In view of aforesaid circumstances, this Court holds that it is not possible to interfere in the order made by Trial Court and also by Sessions Court. In the result, petition stands dismissed. Rule is discharged.

**( T.V. NALAWADE, J. )**

SSD