

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.666 OF 2014
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Mr. Vinod R. Patil

.... Applicant

Vs.

1 State of Maharashtra

2 Mumbai Municipal Corporation of
Greater Mumbai.

.... Respondents

Mr. Rajendra Sorankar, Advocate for the Applicant.

Ms. Surekha Sonawane, Advocate for respondent no.2.

Mr. V.B. Konde-Deshmukh, APP for the State.

St. Catherin Balbhavan, Veera Desai Road, Andheri (west),
Mumbai.

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

Date : 28th February, 2017

PC :

1 This is the common order on the above three
petitions filed by the same petitioner, raising identical issues as

regards the complaint filed by respondent no.1 under Section 381 read with Section 471 of Mumbai Municipal Corporation Act ("MMC Act" for short). All the three proceedings are pending in the Court of Metropolitan Magistrate, 39th Court, Vile Parle (West), Mumbai, in which process has been issued against the petitioner.

2 The petitioner is employed with Mumbai University as an Engineer, who has his office at Vidya Nagari, Santacruz (East), Mumbai. The Mumbai University has its administrative campus as well as residential campus at U.M.D.A.E. Building at Wakola, Santacruz (East) namely Vidya Nagari Parishad Campus. Obviously, for the purpose of water, there is water tank above the pump room. The Mumbai University had also taken up a work of construction through a contractor, who had made his own arrangements for the water required for the construction. The University has a Swimming Pool. Respondent no.1- Corporation sent three notices in respect of the three water places calling upon the petitioner and Mumbai University to take necessary steps to avoid nuisance of mosquito breeding threat within a period of 7 days from the receipt of the notice. It had suggested an alternative to taking of the action by the University, of deposit of a sum of Rs.30,000/- with the respondent towards the cost of taking safety measures by Mumbai Municipal Corporation. As the petitioner had failed to

take the necessary steps within the time prescribed in the notices, the respondents filed three complaints being Court Case No.8307/SS/2013, Court Case No.8308/SS/2013 and Court Case No.8319/SS/ 2013 against the petitioner. The learned Magistrate has issued process in the three complaints. Therefore, the petitioners have filed the present petitions for quashing of the complaint against him.

3 Mr. Sorankar, the learned advocate appearing for the petitioner submits that the petitioner has already deposited amount of Rs.30,000/- as required under the three notices and therefore the trial Court could not have issued process against the petitioner. Ms. Sonawane, the learned advocate appearing for respondent no.2 however points out that the deposit of this amount by the petitioner was not within the time prescribed under the notices and therefore the offence by the petitioner was complete. Consequently, no fault can be found with the order of issuance of the process.

4 Even if Ms. Sonawane is correct in her submission, the action taken by the respondents against the petitioner being a criminal action, the respondents cannot be permitted to take a hyper-technical view of the matter.

5 In the facts and circumstances of the case, in my opinion, the petitions can be disposed off by allowing the same on condition that the petitioner pays costs of the proceedings by depositing the same with Maharashtra Legal Services Authority. Hence, the petitions are allowed on condition that the petitioner pays costs quantified at Rs.5,000/- in each petition by depositing the same with Maharashtra Legal Services Authority within a period of four weeks from today.

(Smt. R. P. SondurBaldota, J.)