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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3912 OF 2016

Nand J. Badlani

... Petitioner

vs.

Deputy Registrar & Ors.

... Respondents

Mr. H.V. Shekhawat for the Petitioner.

Mr. Amit Borkar a/w Suresh Sabrad a/w Ms. Sonal Dabholkar for the Respondent no.2.

Ms. Pallavi N. Dabholkar, APP, for the Respondent-State.

CORAM : A.K. MENON, J.

DATE : 27th JUNE, 2017

P.C.

1. By this writ petition, the petitioner seeks a writ of mandamus directing the respondent no.1 to hear and entertain an application filed by the petitioner under Section 192 of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") and the direction to respondent no.1 to lodge a complaint with the Magistrate's Court as contemplated under Section 195 and 340 of the Cr.P.C.
2. Heard counsel for the parties. Mr. Shekhawat contended that the petitioner the owner of a plot of land admeasuring 147.50 sq.mtrs. at Kandivali(W) which he claims to have purchased in the year 2003 from respondent no.3. The respondent no.2 is a Co-operative Housing Society registered under the Maharashtra Co-operative Societies Act, 1961 and

has put up a separate structure adjoining that of the petitioner in respect of which the respondent no.3 acting purportedly on behalf of respondent no.2 is seeking to recover the maintenance charges on that basis that the petitioner along with one Nitesh Badlani had occupied flat no.B/102 in the respondent no.2's building but had not paid the outgoings. It appears that the petitioner is aggrieved by the fact that the respondent no.3 who was an occupant of one of the flats in the building owned by the said respondent no.2 society had allegedly held himself out as the Secretary of the respondent no.2 society and had made a incorrect statements on oath before the respondent no.1-Deputy Registrar of Co-operative Societies and therefore is liable to be punished for the same. He sought action to be taken under Section 195 r/w Section 340 of the Cr.P.C. It appears that vide letter dated 24th August, 2016 respondent no.1 has suggested that the applicant takes recourse to alternate remedies.

3. On the other hand, it is pointed out by Mr. Borkar on behalf of respondent no.2 society that the petitioner has not disclosed before this Court and in this petition the fact that a Recovery Certificate was issued in Case no.3282/2005 before the Deputy Registrar of Co-operative Societies directing him to pay water charges, electricity charges and other property charges/taxes. Today it is pointed out that the entire basis of the grievance of the petitioner is misconceived inasmuch as the application filed before the respondent no.1 by the respondent no.2 society in the year 2005 is filed by the Chairman of the Society one Mr. Manubhai N. Patel and not by the

respondent no.3. Perusal of Exhibit A to the petition reveals that the application is filed by the society and affirmed by Mr. Manubhai Patel, Chairman of the respondent no.2 society.

4. Prima facie, there is no substance in the petitioner's claim that the respondent no.3 made any false statement on oath before the respondent no.1. In any event, the petitioner has not disclosed other proceedings pending between the parties and has approached this Court invoking its extra ordinary jurisdiction. In the circumstances, I am not inclined to entertain the present petition and the facts do not warrant the exercise of writ jurisdiction. However, from Exhibit I to the petition, it appears that the petitioner is a senior citizen has complained that he has been threatened by certain person. If that is true the petitioner can always seek action against them in accordance with law. Accordingly, I pass the following order:-

- (i) Petition is rejected.
- (ii) No orders as to costs.

(A. K. MENON, J.)