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

CRIMINAL REVISION APPLICATION NO.60 OF 2015

Sau. Vasudha w/o Vinayak Ingale,
Aged about 54 years, Occ: Household,
R/o. Renukanagar, Dabki Road, Old
City, Akola, Tq. & Dist. Akola. ..APPLICANT

VERSUS

1. The State of Maharashtra,
Through its P.S.O. Old City,
P.S. Akola.
 2. Prabhakar Tryambakrao Avde,
Age: 79 years, Occ: Retired.
 3. Shirish Prabhakar Avde,
Aged about 39 years, Occ: Service,
 4. Sau. Bhagyashri Shirish Avde,
Aged about 35 years, Occ: Household,
- All R/o. Renukanagar, Dabki road,
Old City, Akola,
Tq. & Dist. Akola. ..RESPONDENT

Mr S.V. Sirpurkar with Mr Ved Deshpande, Advocates
for applicant;
Mr S.A. Ashirgade, Addl. Public Prosecutor for
respondent No.1;
Mr R.G. Karimandan, Advocate for respondent Nos. 2
to 4

CORAM : N.W. SAMBRE, J.

DATE : 20th MARCH, 2017

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ORAL ORDER :

In Crime No. 3150 of 2007 registered with Old City Police Station, Akola, District Akola, for the offence punishable under Section 294 and 506 of the Indian Penal Code, learned Sessions Judge ordered discharge of the respondents-accuse, against which, present proceedings are taken out by original complainant.

2. Learned Counsel for the applicant submits that the order of discharge passed under Section 239 of the Code of Criminal Procedure is not sustainable for the reason that the cause cited for discharge is not germane. The submission is made that offence punishable under Section 294 of the Indian Penal Code is non compoundable and as such, assuming without admitting that dispute in relation to alleged illegal construction was settled before the Commissioner of Municipal Corporation, same would not amount to compounding of offence. It is claimed that the reasons which are furnished for ordering discharge, particularly about civil nature of dispute is contrary to what

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has been stated in the first information report.

3. Learned Counsel for the respondents supports the order of discharge passed by the learned Sessions Judge. According to him, non specific utterances as are referred to in the first information report would not attract the provisions of Section 294 of the Indian Penal Code. He would then submit that respondent No. 1 is old aged person and is falsely implicated in the crime in question.

4. From the rival submissions, it is required to be noted that both the parties i.e. Applicant and respondents are neighbours and there exists dispute in relation to development of property. It is not in dispute that the complaint lodged by the applicant was settled before Commissioner, Municipal Corporation. Apart from above, Regular Civil Suit No. 164 of 2008 initiated by the respondents against Corporation are still pending. Apart from above, it is also required to be noted that respondent No. 1, aged about 79 years, is added

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as accused along with entire family members.

5. Primarily upon perusal of the contents of first information report and other material available on record depict that the dispute between both the parties is of civil nature. Apart from above, what has been stated in the first information report, particularly attracting offence punishable under Section 294 of the Indian Penal Code against all the accused persons, particularly non applicant Nos. 3 and 4 is vague one and has no basis.

6. Learned Sessions Judge has already dealt with submission of the applicant qua claim for discharge putforth by respondent Nos. 2 to 4. In addition to above, it is worth to mention here that settlement of dispute is objected before this Court on the ground that the applicant is not signatory to such settlement before Commissioner of Municipal Corporation, when has admitted that such settlement is signed by her husband. Even if it is assuming that applicant was not in agreement with the said

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settlement, no resistance or objection is lodged by applicant for such settlement before the Commissioner or at least brought to the notice of this Court.

7. In the above referred back ground, as *prima facie* there is record to infer that the matter has colour of civil dispute, in my opinion, the order of learned Sessions Judge directing discharge in favour of the respondents does not warrant any interference. As such, criminal revision application fails and stands rejected.

(N.W. SAMBRE, J.)

Tupe