

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

**Criminal Application No.995 of 2008**

- 1) Laxmikant s/o. Krushnarao Kulkarni,  
Age 65 years, Occupation: Retired  
R/o Krushna Kunj, Parijat Colony,  
Balikashram Road, Ahmednagar.  
(Reported to be dead on 2-12-2012)
- 2) Vishwesh S/o Yashwant Bhalerao,  
Age 60 years, Occupation: Business,  
R/o 4036, Maidan Aad, Ahmednagar.
- 3) Damayanti w/o. Kamlakar Kulkarni,  
Age 55 years, Occupation: Service,  
R/o Sangale Galli,  
Ahmednagar. **.. Applicants.**

**Versus**

- 1) Sanjeev s/o Babanrao Bhor,  
Age 33 years, Occupation : Social Work,  
R/o. Panchawati Nagar,  
Sawedi, Ahmednagar.
- 2) Kotwali Police Station,  
Ahmednagar  
Through its Police Inspector.
- 3) The State of Maharashtra. **.. Respondents.**

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Shri. V.J. Dixit, Senior Advocate, holding for Shri. L.V. Sangit, Advocate, for applicants.

Shri. Mayur Salunke, Advocate, holding for Shri. V.D. Salunke, Advocate, for respondent No.1.

Ms V.S. Choudhari, Additional Public Prosecutor, for respondent Nos.2 and 3.

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**Coram: T.V. NALAWADE &  
K.L. WADANE, JJ.**

**Date: 16 JULY 2018**

**JUDGMENT (Per T.V. Nalawade, J.):**

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of F.I.R. No.I-80/2008 registered with Kotwali Police Station, Ahmednagar for offence punishable under section 295-A read with section 34 of Indian Penal Code. Both the sides are heard.

2) Respondent No.1 is the first informant and he claimed in the F.I.R. that he was working for one institution by name "Sambhaji Brigade" and he was also spreading the thoughts of the institution and he was enlightening persons on social issues. It is his contention that on 1-3-2008 the institution by name "Samarth Vidya Prasarak Mandal" of the city took out a procession of the students and teachers in the city and they had live scene in which students were dressed to create a scene of Shivaji Maharaj and Ramdas. It is his contention that in

the scene the school had shown that Shivaji Maharaj had bowed before Ramdas and due to that the feelings of the first informant, members of the institution and of many persons from the society were injured. According to him, he has the knowledge of the history and as per the history, on no occasion Shivaji Maharaj had met Ramdas and so there was no question of treating Ramdas as Guru by Shivaji Maharaj. It is his contention that on the contrary Ramdas was against the establishment of kingdom "Swarajya" by Shivaji Maharaj. The F.I.R. was given on 2-3-2008 and the crime came to be registered.

3) Along with the F.I.R. photo copy of the photograph is produced showing that Shivaji Maharaj had bowed before Ramdas. In the live scene and in the procession some students were shown as shoulders, *Mawale* of Shivaji Maharaj.

4) The papers of investigation contain some other material produced by the first informant to support the aforesaid contentions. This Court is avoiding to go into the merits of the allegations made on the basis of history. The

papers of investigation show that the investigating officer has done that work by collecting opinion of others and persons studying history. It was submitted for the State by learned Additional Public Prosecutor that no record was available to show that Shivaji Maharaj had occasion to meet Ramdas or Shivaji Maharaj was treating Ramdas as his Guru. The other things which are there in the record with regard to the allegations made against some castes need not be mentioned here as it will be the subjective satisfaction of the investigating officer to ascertain the truth about the aforesaid facts which can be called at this stage as disputed by the present applicants.

5) Learned Senior Counsel for the applicants submitted that for taking cognizance of such offence sanction of the State Government as provided in section 196 of the Code of Criminal Procedure is necessary. It can be said that the said stage is not yet reached. The present proceeding was filed in the year 2008 and due to interim relief granted by this Court on 17-4-2008 no further steps are taken. It is open to the investigating agency to take required steps if such steps, as argued by the learned

Senior Counsel are required. The offence registered is cognizable in nature. Further, there is power with the Magistrate to extend the period of limitation if he finds on the date of filing of charge sheet the period given for taking cognizance had expired. Criminal Court can consider the circumstances like giving stay to the further proceeding by this Court by order dated 17-4-2008.

6) Learned Senior Counsel for the applicants submitted that if the wording of provision section 295-A is seen, it can be said that the allegations are not sufficient to make out the case for offence punishable under section 295-A of Indian Penal Code. This submission also cannot be accepted at this stage. Whether the things were done mala fide or intentionally can be gathered on the basis of circumstances which the investigating agency can collect and it will be the subjective satisfaction of the investigating officer to ascertain as to whether the material collected is sufficient to make out the aforesaid offence for filing charge sheet. Further, there is one more point which needs to be considered by the Courts. When the things are sensitive like in the present matter, the

question arises as to whether it was proper for the institution to impose its own thoughts on the students by asking them to participate in such procession and by asking them to participate in the live scene. If the institution is not expected to do such things, impose its ideology on the students, inference which is available against such institution can be drawn.

7) It was submitted that applicant No.1 is dead. Copy of death certificate showing that he died on 2-12-2012 is produced on the record. So, the proceeding filed by him needs to be treated as abated. Applicant No.2 was a trustee of the educational institution. There are specific allegations against him. Similarly, applicant No.3 was headmistress of the said school at the relevant time. In view of these circumstances and the aforesaid aspects this Court holds that no relief can be granted in favour of the applicants. In the result, the application stands dismissed. Interim relief stand vacated. Rule stands discharged.

Sd/-  
**(K.L. WADANE, J.)**

Sd/-  
**(T.V. NALAWADE, J.)**

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