

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1738 OF 2018

Shri Vijay Kondayya Manthena	...	Petitioner
Versus		
The State of Maharashtra	...	Respondent

Mr. S. G. Kudle for Petitioner.
Mr. S. S. Pednekar, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.
DATE : APRIL 27, 2018.

P.C. :

. In Crime No. 211 of 2014 registered with Kurla Police Station, the Petitioner is charged with an offence punishable under Sections 170 of the Indian Penal Code, viz – impersonating public servant and Section 506 of the Indian Penal Code, viz – criminal intimidation. The Application (Exhibit – 5) preferred by the Petitioner – Accused to discharge him under Section 239 of the Code of Criminal Procedure is rejected, as such the present Writ Petition.

2. Heard learned Counsel for the Petitioner. The learned Counsel would urge that the Petitioner is a whistle blower social activist. According to him, it can be derived from the investigation that the complainant was carrying out certain illegal work without permission of the Planning Authority i.e. Municipal Corporation of Greater Bombay, as he claimed to be an employee of the Corporation. The Petitioner in his capacity as a social activist objected the same and has lodged complaint to the Corporation of such illegal development. Based on the same, the Petitioner is falsely implicated in the crime in question.

3. Furthermore, the learned Counsel would urge that the fact that there is an absence of permission in favour of complainant to carry out development work is to be ascertained from the chargesheet and as such post of such person who himself was acting contrary to the statutory provisions, the offence ought not to have been registered against the Petitioner. He submits that the ingredients of Section 170 and Section 506 of the Indian Penal Code are not established *qua* the evidence collected by the investigating agency. He sought quashing of the order rejecting the prayer for discharge and prayed for discharge.

4. Per contra, the learned APP opposed the claim and would invite attention of this Court to the evidence produced. According to him, if the submissions of the Petitioner are appreciated, same amounts to appreciating the defence.

5. Considered the rival submissions.

6. The complainant is an employee of the Corporation, who alleged in the complaint that Petitioner had impersonated as of an Officer of the Municipal Corporation. It is then to be noted that since the complainant himself was an employee of the Corporation, was aware about the officials who are working in the Corporation in the said area and specifically narrated in his complaint about the alleged impersonation by the Petitioner, demand of money and criminal intimidation.

7. The other witnesses of the incident namely, Kishor Dubale, Anton Sonawane, Harish Agarwal, Iftekar Ahmad and Ganesh speaks of active involvement of the Petitioner in crime in question. In that view of the matter, there appears to be sufficient material to proceed against the Petitioner for the alleged crime for which he is chargesheeted. I hardly

noticed any infirmity in the order passed under Section 239 of the Code of Criminal Procedure rejecting the claim for discharge. As such, the Writ Petition, in my opinion, is devoid of merits.

8. As such, the Writ Petition is dismissed.
9. Liberty to the Petitioner to apply for early hearing of the trial.

(NITIN W. SAMBRE, J.)