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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1128 OF 2016

Chandrakant Sahadu Dagade,
Age: 51 years, Occu: Agriculturist,
R/at Bavadhan Budruk, Taluka
Mulshi, District Pune.

..Petitioner.

V/s.

1. Smt. Sulochana Chandrakant
Mengade, Age: 48 yrs., Occu:
Household, R/at Opposite
Siddhi Laws, Bhugaon, Taluka
Mulshi, District Pune.
2. Smt. Leelabai Kashinath Thombre
Age: 52 yrs., Occu: Household,
R/at Namdev Niwas, Opposite
Madhushree Building, Bavadhan
Budruk, Taluka Mulshi, District Pune.
3. State of Maharashtra ..Respondents.

Ms.Maya Jadhav i/b. Mr.S.B.Shetty for the petitioner.

Mrs.S.S.A Kaushik, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

RESERVED ON : APRIL 27, 2018

PRONOUNCED ON : MAY 4, 2018

ORDER

The petitioner-complainant preferred Criminal Case No.5000/2013 in the Court of Judicial Magistrate, First Class, Pune in regard to the change of Mutation Entry.

2. The learned Magistrate ordered issuance of process on January 23, 2014. The said order of issuance of process was subject matter of challenge in Criminal Revision No.258/2014 at the behest of the original accused Nos.1 and 2. The Revisional Court allowed the revision and remanded the matter back to the Magistrate with directions to make further inquiry *qua* the role of the original accused Nos.1 and 2 and to pass the said orders in the matter. The petitioner-complainant preferred an application for clarification of the said order being Miscellaneous Application No.332/2014 which came to be allowed on January 7, 2015 by the learned Additional Sessions Judge, Pune by observing that the order setting aside the issuance of process in respect of accused Nos.1 and 2 shall also apply to accused Nos.3 to 6.

3. In Criminal Writ Petition No.1152 of 2015 this Court set aside the clarification order passed by the Additional Sessions

Judge, Pune of January 7, 2015 having noticed that original accused Nos.3 to 6 had not challenged the order of issuance of process and the clarificatory order dated January 7, 2015 is in exercise of power of review which is not permissible in criminal law.

4. As a consequences of above, the original accused Nos.3 and 4 preferred revision application before the learned Additional Sessions Judge, Pune who by the impugned order dated November 2, 2015 held it to be not maintainable. The petitioner is aggrieved by certain observations made in the order dated November 2, 2015 passed in Computer Entry No.6678/2015 in regard to the revision preferred by accused Nos.3 and 4.

5. According to the petitioner, original complainant, the observations made against the petitioner by the learned Additional Sessions Judge in an order passed in revision which was not maintainable might cause prejudice while deciding the complaint on merits.

6. Considered the submissions.

7. Once the revisional Court has held that the revision of the accused Nos.3 and 4 is not maintainable, it means that the Revisional Court was of the view that it has no jurisdiction. The Court having once held that it has no jurisdiction to entertain the revision, the claim of the petitioner that the observations made in the impugned order will cause prejudice to him will be of hardly any consequence particularly when the impugned order seems to have been passed rejecting the claim of jurisdiction to entertain the revision.

8. As such, this petition can be dismissed with observations that the trial Judge to decide the issue raised before him without being influenced by the observations made in the impugned order dated November 2, 2015 *qua* the claim made by the present petitioner.

(NITIN W.SAMBRE, J.)