

Nalawade

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

WRIT PETITION NO. 3153 OF 2016

Smt. Mangal S. Nimbalkar

... Petitioner

V/s.

Shri.Sahebrao S. Nimbalkar and ors.

... Respondents

Mr. Sandeep Salunke for the Petitioner.

Mr. Amit Palkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 19th September, 2018

P.C.:

1. By the present petition under Article 227 of the Constitution of India the petitioner has questioned correctness of the Order dated 3.1.2011 passed by the learned Judicial Magistrate First Class, Satara thereby discharging the original accused Nos. 1,2,4,6,7,8 and 10 to 14 from Summary Criminal Case No.8672/1998 which was instituted by the petitioner under Section 499, 500, 504 and 506(2) read with 34 and 109 of the Indian Penal Code.

2. Heard Shri. Salunke, the learned counsel for the petitioner and the learned APP. Perused the record.

3. The petitioner is the original complainant in Summary Criminal Case No. 8672 of 1998 filed under Section 499, 500, 504, 506(2) read with 354 and 109 of the Indian Penal Code. The learned Trial Court was pleased to issue process by its Order dated 8.7.1998. The learned Trial Court while hearing the complainant under Section 245 of the Cr.P.C., after taking into consideration the evidence produced by the complainant/ petitioner was pleased to discharge Accused Nos. 1,2,4,6,7,8,10, 11,12,13 and 14 under Section 245 of the Cr.P.C. and proceeded with the said case as against the original accused Nos.3,5, and 9.

The said Order dated 3.1.2011 was challenged by the petitioner by way of Criminal Revision Application No. 16/2011 before the Additional Sessions Judge, Satara which came to be dismissed on the ground that during the pendency of the said revision application the original Summary Criminal Case No.,8672/1998 was already decided on merits by the learned Judicial Magistrate First Class, Satara on 10.4.2013.

4. It is a fact on record that, during the pendency of the Revision Application No.16/2011 the Trial Court has concluded the trial and acquitted the original accused Nos. 3,5 and 9 from the charges levelled against them. A bare perusal of the record would indicate that, there was

no sufficient material/evidence to proceed against the respondents/accused Nos.1,2,4,6,7,8,9 and 10 to 14 in the matter and therefore, the Trial Court has rightly discharged them under Section 245 of the Cr.P.C. by the impugned Order dated 3.1.2011. It is to be noted here that, the prosecution as lodged by the petitioner herein appears to be a luxury litigation for her. According to this Court the petitioner wants to harass the said accused persons by instituting the said proceedings.

5. After perusing the entire record and the impugned Orders dated 3.1.2011 and 2.9.2014, this Court is of the considered view that, both the Courts below have not committed any error either in law or on facts while passing it.

6. Petition is devoid of any merits and accordingly dismissed in limine.

(A.S.GADKARI, J.)