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

**WRIT PETITION NO.4341 OF 2015
WITH
CRIMINAL APPLICATION NO.490 OF 2017
(FOR RESTORATION)
IN
WRIT PETITION NO.4341 OF 2015**

Pandurang Devjai Patil	...Petitioner/Applicant
Versus	
The State of Maharashtra and Ors.	...Respondents

Mr.Chetan Damre, for the Petitioner/Applicant.

Mr.S.R.Shinde, A.P.P for the Respondent No.1-State.

Mr.Milind Parab i/b Milind Parab and Associates, for the Respondent Nos.2 to 6.

CORAM : REVATI MOHITE DERE, J.

DATE : 22nd JANUARY, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has impugned the order dated 6th July, 2015, passed by the learned Additional Sessions Judge, Gadhinglaj

in Criminal Revision No.30 of 2012.

3. Learned Counsel for the petitioner (original complainant) states that the learned Additional Sessions Judge ought not to have interfered in the order 6th April, 2011, passed by the learned Judicial Magistrate First Class, Gadhinglaj, by which process came to be issued as against the respondents. He submitted that the complaint clearly discloses commission of offences punishable under Sections 323, 427, 452, 504, 506 r/w 34 of the Indian Penal Code and as such the impugned order be quashed and set aside.

4. Learned Counsel for Respondent Nos.2 to 6 submitted that no interference is warranted in the impugned order. He submitted that the learned Judge has rightly observed that the dispute was a civil dispute; that that there was a discrepancy in the names mentioned in the earlier complaint lodged with the police and the private complaint and as such the same creates a doubt about the truthfulness of the complaint.

5. Perused the papers as well as the impugned order. The

petitioner is the original complainant and respondent nos.2 to 6 are the residents of Narewadi, Tal. Gadhinglaj, District - Kolhapur. Their houses are adjacent to each other. It appears that there is a dispute between the parties with respect to the drainage, which is constructed near the house of the petitioner and others. A quarrel took place between the petitioner and the respondents on 11th March, 2011. According to the petitioner, the respondents assaulted, abused and threatened him and demolished the wall constructed by him. He has also alleged that the respondents demolished the wall and tiles alongwith the drainage and caused damage worth Rs.10,000/-. Pursuant to the said incident dated 11th March, 2011, the petitioner went to the Gadhinglaj Police Station for lodging a report, however, was informed that no cognizable offence was disclosed as alleged and that the complaint, if any, was an NC complaint. On refusal of the police to register the complaint, the complainant filed a private complaint in the Court of learned Judicial Magistrate First Class, Gadhinglaj i.e. Complaint Case No.21 of 2011. After verification, process was issued as against the respondents. The respondents herein challenged the order of issue process in Revision and the Revisional Court was pleased to allow the Revision and accordingly the order of issue process

was quashed and set aside. A perusal of the private complaint and the complaint letter lodged with the police clearly shows that the names of Janabai, Ramchandra and Gajendra were not mentioned in the complaint letter given to the police and were disclosed for the first time in the private complaint. The learned Judge has rightly observed that the said fact, creates a doubt about the truthfulness of the complaint. The learned Judge also observed that the dispute appears to be a civil dispute. The finding recorded by the learned Additional Sessions Judge cannot be faulted and cannot be said to be either perverse or unsustainable, warranting interference in writ jurisdiction.

6. Accordingly, the petition is dismissed and disposed of as such.

7. In view of the aforesaid, Criminal Application No.490 of 2017, does not survive and the same is also disposed of.

REVATI MOHITE DERE, J.