

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.84 OF 2014

Shri Prakash Laxman Gaikwad.] ... Petitioner

Versus

State of Maharashtra & Ors.] ... Respondents

Mr. R. R. Tripathi for Petitioner.

Mr. C. P. Yadav, AGP for State.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.

DATE :- 21 MARCH, 2018

P. C. :-

1. The contempt alleged is of the order dated 28/06/2013 passed by a Division Bench of this Court (S. C. Dharmadhikari & S. B. Shukre, JJ.). The contempt jurisdiction is invoked on the ground that in spite of the directions as contained in the said order, the FIR has not been registered against the doctors. In the context of the allegation of contempt, it would be apposite to refer to para 11 of the said order which, for the sake of ready reference, is reproduced hereinunder.

“11. As a result of the above discussion, and in continuation of the earlier orders, and based on the statements made in the affidavits and documents, namely opinion of the doctor communicated on 8.3.2013, we direct the Bhiwandi Rural Police Station to file a complaint against the concerned doctor and proceed with the same in accordance with law. Needless to clarify that if such a complaint/F.I.R. is filed, it should be dealt with by the concerned court without being influenced by the allegations and the outcome of the private complaint of the petitioner and his sons and equally all the allegations made by the petitioner earlier.”

Hence, a reading of the above para indicates that the directions to the Bhiwandi Rural Police Station is to file a complaint against the concerned doctors and proceed with the same in accordance with law.

2. On behalf of the Respondent No.1, an Affidavit has been filed by one Mr. Ganpat Dinkar Pingle, Senior Police Inspector, who was working at the relevant time with the Bhiwandi Taluka Police Station, Thane. Para 6 of the said Affidavit is material and is reproduced hereinunder.

“6. I say that pursuant to the said directions given by this Hon'ble Court my office has recorded N.C. Complaint No.427 dated 18.7.2013 was recorded against Dr. Sahil of Raiz Diagnostic Centre and another N.C. Complaint No.428 dated 18.7.2013

under section 197 of the IPC were recorded and the same was forwarded to the concerned Hon'ble Judicial Magistrate First Class have granted all the necessary investigation permission and after receiving the necessary accord and sanction from the said Judicial Magistrate First Class, Bhiwandi, necessary investigation in accordance with the law have been carried out and after following due procedure under law. Hereto annexed and marked as "Exhibit-1 and 2" is the copy of N.C. Complaint No.427 and 428 dated 18.7.2013. The necessary chargesheet was filed against both the accused i.e. Dr. Sahil and Dr. Mrs. Jayshree Maske of Indragandhi Memorial Hospital on 24.8.2013 upon the Learned Judicial Magistrate First Class taking cognizance under section 190 Cr.P.C., 1973. Hereto annexed and marked as "Exhibit-3" is the copy of the said chargesheets. The said cases are now pending for trial for the offences under Section 197 and 465 of IPC."

Hence, the said para 6 discloses that pursuant to the permission granted to investigate into a N.C. Complaint against the said two doctors, the investigation was carried out and charge-sheet was filed on 24/08/2013 and that the trial is now pending. In view thereof, we do not deem it appropriate to exercise our contempt jurisdiction. Contempt Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)