

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION 58 OF 2017

(Shri Nitin s/o. Ramesh Murale & anr...vs...Shri Ramesh s/o. Bhimraoji Nage)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri P.S. Raut, counsel for petitioner.
Miss. Ankita Sarkar h/f Shri P.R. Agrawal, counsel for respondent.

CORAM: ROHIT B. DEO, J.

DATE: 26th APRIL, 2018.

Heard Shri P.S. Raut, learned counsel for the petitioner and Miss. Ankita Sarkar holding for Shri P.R. Agrawal, learned counsel for the respondent.

2 Petitioner was the defendant in Regular Civil Suit 3 of 2012 which came to be dismissed by the Civil Judge, Junior Division, Bhatkuli on 5.3.2016. Even before the judgment, the petitioner moved an application Exh. 79 seeking initiation of action against the plaintiff under section 195 read with section 340 of the Code of Criminal Procedure. The said application came to be rejected on 5.3.2016. The petitioner challenged the said order in Criminal Appeal 57 of 2016 which is rejected by the Principal District & Sessions Judge, Amravati. These orders are impugned herein.

3 In all fairness, the learned counsel Shri P.S. Raut states that civil appeal challenging the substantive decision in Civil Suit 3 of 2012 is pending for adjudication before the

District Judge – 5, Amravati. Needless to say, since the appeal is a continuation of suit, it would be appropriate if the petitioner awaits the decision in appeal and then, depending on the findings recorded, move the appropriate court seeking initiation of action under section 195 read with section 340 of the Code, if so advised. Shri P.S. Raut seeks leave to withdraw the petition with liberty to take out appropriate proceedings after the decision in Civil Appeal 49 of 2017.

4 The petition is disposed of as withdrawn, with liberty as prayed for.

JUDGE