

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION No.700 of 2017

* Mir Malayak Roshan Ali Hashmi,
Age 56 years,
Occupation : Government Job
R/o Chaitanya Nagar, Taroda Bk,
Nanded,
Taluka and District Nanded. .. **Petitioner.**

Versus

- 1) Ashok S/o Gangaram Adkine,
Age 35 years,
Occupation : Newspaper Reporter
of Dainik Deshonnati.
- 2) Govind s/o Pundlikrao Deshmukh,
Age 40 years,
Occupation Newspaper Reporter of
Dainik Sakal.
- 3) Gangadhar s/o Pandurang Shitle,
Age 45 years,
Occupation News paper Reporter
of Lokmat.
- 4) Shaikh Javeed s/o Shaikh Chand
Pasha, Age 35 years,
Occupation News paper Reporter
of Dainik Punyanagri.
- 5) Sanjay S/o Ramrao Bahattare,
Age 40 years,
Occupation News paper Reporter
of Deshonnati.
- 6) Shahir Shesherao Gavande,
Age 35 years,
Occupation News paper Reporter
of of Dainik Samna.

All R/o Dongarkhed,
Taluka Kalamnuri,
District Hingoli.

- 7) The State of Maharashtra
Through Police Station,
Vajirabad Nanded
Taluka & District Nanded. .. **Respondents.**

Shri. G.G. Suryawanshi, Advocate, for petitioner.

Shri. G.P. Shinde, Advocate, for respondent Nos.1 to 5.

Respondent No.6 - served.

Shri. P.N. Kutty, Additional Public Prosecutor, for
respondent No.7.

Coram: T.V. NALAWADE, J.

Date: 5 MARCH 2019

ORAL JUDGMENT:

1) Rule. Rule made returnable forthwith. Heard
both sides by consent for final disposal.

2) The petitioner is original complainant of
S.C.C.No.2106/2015 which was pending in the Court of
the Judicial Magistrate, First Class Nanded. The complaint
was filed under section 500 of Indian Penal Code. The

learned Judicial Magistrate had refused to issue process on the basis of verification done under section 200 of the Code of Criminal Procedure. It can be said that it was held that the complaint was made by the present respondents to the authorities covered in the eighth exception of section 499 of Indian Penal Code. Revision was then filed but the revision is also dismissed by using the same provisions of law.

3) The submissions made show that the respondents are the reporters working with various news papers. The complainant was allotted the work of construction like increasing the height of stream leading to Bhategaon canal. The respondent Nos.1 to 6 made allegations that the execution of the said work was not proper. Inquiry was made by the authorities and it was found that there was no irregularity. Then the respondents started agitation by sitting in front of the office of the Collector. Due to his insistence, second inquiry was ordered and in the second inquiry also it was found that there was no irregularity in the work executed by the complainant. It appears that the second inquiry

report was not before the Judicial Magistrate and there was only verification statement of the complainant. This second inquiry report was also not before the revisional Court and due to that the orders are made against the petitioner.

4) The submissions made and the record show that it is not disputed that the respondents started agitation by sitting in front of the office of the Collector. It can be said that by such conduct, they published the imputation made against the complainant and this circumstance is not considered by the Courts below. Only because report of the second inquiry was not before the Judicial Magistrate this Court is remanding the matter back to the learned Judicial Magistrate for consideration as to whether the conduct of the respondents is covered by any of the exception given to section 499 of the Indian Penal Code.

5) In the result, the petition is allowed. The order of the Judicial Magistrate and the decision of the Sessions Court are set aside and the matter is remanded back to

the Judicial Magistrate First Class. The complainant to appear before the Judicial Magistrate on 20 March 2019. The learned Judicial Magistrate is not expected to get influenced by any of the aforesaid observations. Rule is made absolute in aforesaid terms.

Sd/-
(T.V. NALAWADE, J.)

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