

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

Criminal Writ Petition No.1725 of 2018

* Rahul s/o Vasantryao Gharte,
Age 41 years,
Occupation Service as
Range Forest Officer,
R/o Flat No.103, Sunshine,
Rameshwar Nagar,
Gangapur Road, Nashik. .. **Petitioner.**

Versus

- 1) The State of Maharashtra
Through Police Station Officer,
Pimpalner Police Station,
District Dhule.
- 2) Savita d/o Devidas Rathod,
Age 24 years,
Occupation service as
Forest Guard,
R/o Plot No.1,
Rukhmini Apartment,
Nawale Colony, Nashik Road,
Nashik. .. **Respondents.**

Shri. Nitin V. Gaware, Advocate, for petitioner.

Shri. S.B. Yawalkar, Additional Public Prosecutor, for
respondent No.1.

Shri. Shaikh Naseer, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
MANGESH S PATIL, JJ.**

Date : 2 MAY 2019

JUDGMENT (Per T.V. Nalawade, J.) :

1) Rule. Rule made returnable forthwith. By consent, heard both sides for final disposal.

2) The proceeding is filed for the relief of quashing and setting aside the charge-sheet filed in Crime No.4/2017 which was registered in Pimpalner Police Station, District Dhule. The case is filed for offence punishable under section 509 of Indian Penal Code against the petitioner in the first information report given by respondent No.2.

3) The petitioner is working as Range Forest Officer. At the relevant time he was posted at Pimpalner, District Dhule where respondent No.2 was officiating as Forest Guard (at Shelbari check post). The incident in question took place on 14-1-2017. At about 6.00 p.m. when the petitioner visited Shelbari check post, he started making inquiry into the act of respondent No.2 about her visit to shop of one Altaf Sayyed. He made allegation that by paying such visits she had indulged in illegal activity. Then the petitioner questioned as to why she was not in

uniform. It is the case of the first informant that she informed that she was observing menstruation and due to that she was not in uniform and she further stated that there were stains on her pant. It is her contention that the petitioner then asked her to show that she was really observing menstruation. The petitioner then left that place. The first informant gave report on the same day and the crime came to be registered at 22.00 hours.

4) The submissions made and the record show that present petitioner and first informant had reported the incident to the superior officer and inquiry into the incident was made by internal complaint committee. The committee found that, the incident as alleged by the first informant had not taken place. The committee observed that displeasure was expressed by the petitioner as the first informant was not in uniform and there was no sexual harassment as such. A copy of the report given by the petitioner against the first informant is on record and it was given on the same day, he had informed that when he had questioned as to why she was not in uniform, the first informant had started quarelling with him, she had given

answers in arrogant language, she had given threats by calling some persons to teach him lesson and she had given threats to give false report against him that he was sexually harassing her. He had even made complaint that the first informant had forcibly removed the key of his two wheeler to pressurize him. He had informed that she was not discharging the duty honestly and diligently.

5) In view of nature of allegations made and as both the sides had approached the authority this Court asked learned counsel of the petitioner to show the antecedents of the first informant. A copy of report given by the previous superior officer dated 2-12-2013 is produced. This copy was made available to the counsel of the first informant also. This document shows that she had given threats to the previous officer on 26-11-2013. There is a copy of communication dated 11-3-2016 showing that the first informant was not remaining present at the place where she was expected to discharge the duty and without obtaining previous permission she used to remain absent. Show cause notice was given as to why her pay should not be stopped as she was not discharging the duty.

6) The incidents of insubordination are increasing day by day. Employees like the first informant are creating trouble to the superior officers. Due to the employees like the first informant, the superior officers are not showing courage to enforce discipline in the department. To corroborate the allegations made by the first informant there is nothing and on the contrary there is the record against her to show that she is not a disciplined employee and she is in habit of making allegations against superior officers. The submissions made show that departmental action is not taken against the first informant. That is unfortunate. In such cases departmental action is expected. This Court holds that it will be abuse of process of law if the petitioner is asked to face trial for the aforesaid offences. In the result, the petition is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/-
(MANGESH S PATIL, J.)

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

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