

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

CRIMINAL APPLICATION NO. 602 OF 2015

Anil Balaso Gholap

.. Applicant

Vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. Uday P. Warunjikar for the Applicant.

Mr. Ajay Patil, APP for Respondent No.1 -State.

Mr. Yuvraj Gharal i/b Mr. Vijay Killedar for Respondent Nos.2 & 3.

CORAM : SMT. BHARATI DANGRE, J.

DATE : 25th SEPTEMBER, 2019.

P. C. :

1. The Applicant is aggrieved by an order passed by the learned Judicial Magistrate, Jaysingpur in RCC No. 39 of 2013 thereby acceding to the request of the Complainant and issuing summons against accused No.1-Smt. Rajmati Jaypal Magdum for the offence punishable under Sections 193, 420, 468, 471 of the Indian Penal Code. The Applicant is however aggrieved by the later part of the order passed by the Judicial Magistrate where the complaint is dismissed against accused No.2-Smt. Vandana Appasaheb Magdum. The submission is that the Magistrate did not take into consideration the statement contained in the complaint which referred and assigned role to accused No.2 for forging the proceeding book and making use of the letter-head and stamps of

the Trust for certain extraneous purposes.

2. Learned Counsel Shri Warunjikar would place reliance on the statement of one Mr. Vijay Jaypal Magdum, President of Dr. J. J. Magdum Charitable Trust and also one Mr. Raju Ganpati Pawar recorded at the stage of inquiry under Section 202 of the Code of Criminal Procedure.

3. With the assistance of learned counsel I have perused the complaint as well as two statements referred to above. In the complaint it is the case of the Complainant that one Dr. J. J. Magdum was the Chairman of the Trust and one Mr. Vijay Jaypal Magdum was the Vice-Chairman. On expiry of Dr. J. J. Magdum on 14.08.2012, Shri Vijay Jaypal Magdum came to be elected to the post of Chairman of the Trust which runs various institutions and for the said purpose the letter-head and stamps were allocated to the Complainant who was office bearer working with the Trust. While working so, the Complainant came across documents where the letter-head and stamps of the Trust have been put to use by accused No.1 Smt. Rajmati Jaypal Magdum and she had signed the said documents as the Chairman and these documents have been put to use illegally and unauthorizedly for several purposes including judicial proceedings. The complaint then makes reference to

accused No.2 in respect of manipulation of the proceeding book dated 07.10.2012. However the said role attributed to accused No.2 is in cohesion with accused No.1. Perusal of the statement of Mr. Vijay Magdum and Raju Ganpati Pawar, the witnesses examined by the Complainant at the stage of inquiry under Section 202 of the Cr. P.C. are also in sync with the complaint and specific role is attributed to accused No.1 and the statements do not attribute specific role to accused No.2. In such circumstances, the order passed by the learned JMFC dismissing the complaint against accused No.2 cannot be said to be flawed one. In such circumstances, Criminal Application is bereft of any merit and deserve to be dismissed and is accordingly dismissed.

4. Needless to state that at the stage of trial if any relevant material pointing of involvement of accused No.2 is brought on record, the applicant is at liberty to move an appropriate application before the concerned Court after following necessary procedure as set out in the Code of Criminal Procedure and the Court is at liberty to consider the said material.

[SMT. BHARATI DANGRE, J.]