

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2953 OF 2017

Dr. Lalit Sunil Patil

.Petitioner

Vs.

The State of Maharashtra

.Respondent

**WITH
WRIT PETITION NO. 2954 OF 2017**

Kaustubh Vishwas Jadhav

.Petitioner

Vs.

The State of Maharashtra

.Respondent

Mr. S. A. Ingawale, Advocate, for the Petitioner **in both matters**
Mr. K. V. Saste, APP, for the Respondent – State **in both matters**

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.**

DATE : 22.02.2019

P.C.

. Petitioners pray for quashing of FIR dated 26.03.2017 registered as C. R. No. 19 of 2017 by Respondent under Section 294 of Indian Penal Code and Sections 112 r/w 117 of the Maharashtra Police Act, 1951.

2. Learned counsel has taken us through report lodged by police officer to urge that ingredients of Section 294 or 112 are not satisfied.

3. Learned APP has produced before Court the records brought by the investigating officer and relied upon statements of two witnesses recorded on 26.03.2017.

4. Section 294 speaks of any obscene act in any public place or singing, reciting or uttering any obscene song, ballad or words, in or near any public place. The act of singing or dancing must also result in annoyance to others. Section 112 of the Maharashtra Police Act envisages threatening or abusing or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace or then which may occasion breach. These words or behaviour must be in any street or public place. Section 117 provides punishment for offence under Section 112.

5. Here the report dated 26.03.2017 lodged by Police Naik Ganesh Varade shows that he entered a private bungalow after verifying the position from window. He states that outside bungalow, he could hear sound of music and dancing and when they peeped through window, they found the boys and girls dancing. Thereafter, they entered the bungalow through the door which was open.

6. Statements of two witnesses namely Sou. Priya and her husband are identical. They were travelling and wanted to book a room for night stay. When they were in search of Hotel, they could hear loud noise of singing and dancing. Hence, they peeped from window and then informed police.

7. The Police Naik as also these witnesses state that girls were inadequately dressed.

8. However, none of them point out dancing or singing was at a public place or then was visible from a public place. None

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of them also state that there was any obscene act or obscene song or obscene words and they heard such words at a public place.

9. We find that ingredients of Section 294 of Indian Penal Code or Section 112 of the Maharashtra Police Act, 1951 are not satisfied in the matter.

10. We, therefore, make rule absolute in terms of prayer clause (a) in both the matters.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)