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

CRIMINAL WRIT PETITION NO.4777 OF 2018

Vidhyadhar Moreshwar Kulkarni	...Petitioner
Versus	
The State of Maharashtra and Ors.	...Respondents

Mr.K.S.Patil, for the Petitioner.

Mr. A. R. Patil, A.P.P for the Respondent No.1- State.

CORAM : REVATI MOHITE DERE, J.

DATE : 4th NOVEMBER, 2019

P.C. :

1. Heard learned Counsel for the petitioner and the learned A.P.P. for the Respondent No.1– State.

2. By this petition, the petitioner has impugned the order dated 26th February, 2014, passed by the learned Judicial Magistrate First Class, Court No.5, Kolhapur, by which the petitioner’s complaint was dismissed under Section 203 of the Code of Criminal Procedure as well as the order dated 11th June, 2018, by which the learned Additional Sessions Judge, Kolhapur, rejected petitioner’s Revision Application, challenging the order of dismissal of the complaint under Section 203 of Cr.P.C.

3. Perused the papers. According to the petitioner (complainant), there was an alleged defalcation in the affairs of the Kolhapur Municipal Corporation in the project of E-Governance. The petitioner (complainant) has alleged that the Respondent Nos.2 to 6 had committed breach of trust of the people and had misused the authority for wrongful gain. It was also alleged that the said respondents had forged documents to show compliance of E - Governance and had without any justification appointed unqualified persons for the management/supervision of the said project. There were allegations of fraud and embezzlement of the amounts also made in the complaint filed by the petitioner. The said complaint was filed in 2012, alleging offences punishable under Sections 405, 409, 463, 465 and 467 r/w 34 of the Indian Penal Code, as against Respondent Nos.2 to 6. The learned Magistrate referred the complaint for investigation under Section 202 Cr.P.C. to the police, pursuant to which, the police investigated and filed a report stating therein, that no offence as alleged is disclosed, *qua* any of the said respondents. It appears that the police report indicated that the audit was done and no objection was brought out by the auditor. It was also mentioned in the report that no monies of Kolhapur Municipal Corporation were misappropriated by the said respondents. Accordingly, the police submitted their report along with all documents pertaining to the investigation done by them. The said report was assailed by the petitioner.

The learned Magistrate after considering in detail the report submitted by the police as well as the documents submitted by the complainant came to the conclusion that no *prima facie* case was made out and that there was no sufficient ground for proceeding against the respondents nos.2 to 6. Accordingly, the learned Magistrate vide order dated 26th February, 2014, dismissed the complaint of the petitioner under Section 203 of Cr.P.C. Being aggrieved by the said order dated 26th February, 2014, passed by the learned Judicial Magistrate First Class, Kolhapur, the petitioner filed a Revision Application in the Court of the learned Additional Sessions Judge, Kolhapur, being Criminal Revision Application No.118 of 2014. The learned Additional Sessions Judge, after hearing the parties also rejected the Revision Application. The learned Additional Sessions Judge observed that the allegations were sans any justifiable material to proceed against the accused.

4. Having perused the impugned orders, no infirmity can be found in the said orders nor can the aforesaid orders be said to be perverse. The petition being devoid of merit stands dismissed.

REVATI MOHITE DERE, J.