

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1364 OF 2019

1. Sahebrao s/o. Ramrao Deshmukh
Age 39 years, Occu. Service,
R/o. Karanji, Post Sarsam (Bk),
Tq. Himayatnagar, Dist. Nanded.
2. Sahadeo Sonbaji Surjuse,
Age 61 years, Occu. Pensioner,
R/o. Snehagandha Gruhanirman
Sahakari Society, Near New
Amravati Railway Station,
Amravati, Dist. Amravati.
3. Anilsinh s/o. Dashrathsinh Gautam,
Age 53 years, Occu. Service,
R/o. Police Control Room, Yavatmal,
Dist. Yavatmal.

....Petitioners.

Versus

1. The State of Maharashtra
Through Police Station Himayatnagar,
Dist. Nanded.
2. Anand s/o. Uttamrao Bawne,
Age 38 years, Occu. Service,
R/o. C/o. Rayewar Sir, Rukhmini
Nagar, Himayatnagar, Tq. Himayatnagar,
Dist. Nanded.

....Respondents.

Mr. S.J. Salunke, Advocate for petitioners.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. V.P. Narwade, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 14/01/2020.

JUDGMENT : [PER T.V. NALAWADE, J.]

- 1) Rule. Rule made returnable forthwith. By consent, heard

both the sides for final disposal.

2) Present proceeding is filed for relief of quashing of F.I.R. No. 118/2019 registered with Himayatnagar Police Station, Nanded for the offences punishable under sections 341, 353, 467, 468, 469, 201, 120-B etc. of Indian Penal Code (hereinafter referred to as 'I.P.C.' for short). The crime is registered on the basis of report given by respondent No. 2 Anand Bawne. Papers of investigation were made available to the Court by the learned APP.

3) The informant gave report to police on 18.7.2019 and he has described the incident dated 25.9.2014. He was working as Assistant Teacher in the school of Zilla Parishad situated at village Rukmini Nagar, Tahsil Himayatnagar, District Nanded. According to him, on 25.9.2014 at about 9.00 a.m. in the presence of his mother and wife, order of suspension from service was served on him at his residential place. According to him, false record was created by the petitioners that he was suspended with effect from 5.9.2014 and that in the past, the order was served on him. Petitioners are the Head Master, Education Officer and Police Officer.

4) It is the contention of the informant that on 25.9.2014 he reached the school at 9.45 a.m. and when he went to class of standard 7th for teaching, he noticed that his Head Master was in the

company of Police Officer. It is contended that at about 10.30 a.m. to 11.00 a.m. when he was doing the job of teaching, accused No. 3 Police Officer entered the class room and said that his superior officer had called him. According to informant, he said that he was discharging his duty and when the school time is over, he would come to the superior officer. Petitioner No. 3 was not in a mood to listen to it. It is contended that his mobile handset was taken over by petitioner No. 3 and then he was virtually lifted and taken out of aforesaid class room. It is his contention that even when he was trying to say that there was some dispute with the management, with the Head Master, the police officer was not in a mood to listen. He has made allegations that he was taken to police station and there, he was assaulted by accused No. 3 and he was punished by making him to sit at the place. It is his contention that he was insulted by accused No. 3 on the instigation of accused Nos. 1 and 2 and threats were also given to him. It is contended that his colleagues somehow rescued him, but he was asked to remain present in police station on 26.9.2014. It is contended that on that day, it was informed to him that police had sent the record to the Court of J.M.F.C. It is his contention that he realised that false case was filed against him. It is his contention that false time of arrest was shown in the record by the police. It is his contention that he made representation to District Collector for informing aforesaid grievance, but no action was taken. According to him, he had approached

District Superintendent also, but no action was taken. He filed private complaint on 20.3.2015 before J.M.F.C. and in that matter order of investigation was made under section 156(3) of Cr.P.C. and crime came to be registered on 19.7.2019. Initially the order was not made by J.M.F.C. and the order came to be made in Criminal Revision No. 15/2015 by the Additional Sessions Judge, Bhokar.

5) This Court has carefully gone through the record produced by the informant and also by the petitioners. There is record to show that Education Officer, Primary, Zilla Parishad, Nanded had issued order of suspension on 5.9.2014 against the informant. In the same order, it was made clear that his head quarter was office of Panchayat Samiti, Mahur. There is record to show that the Chairman of the Committee of the teachers had tried to serve the notice of suspension on the informant on 6.9.2014, but he had refused to accept that notice. Notice was sent by R.P.A.D. also and the envelop having postal endorsement shows that on 13.9.2014 notice was returned as informant refused to accept that envelop. It is already mentioned that the informant is admitting that he accepted the notice in the morning of 25.9.2014.

6) There is correspondence showing that even after suspension, the informant was coming to the school and he was quarreling with the Head Master and he was signing on the muster

roll. Copy of muster roll is produced on the record and it shows that atleast up to 20 September, signatures were made by the informant, but they were nullified by scoring by somebody and then from 22.9.2014 it was mentioned on muster roll that he was under suspension and his head quarter was different. But from muster roll, it can be said that from 19th or 20th September no such endorsement was made on the muster roll and he kept on signing the muster roll. Grievance was made to Education Officer about it by the Head Master and Head Master was given direction to see that F.I.R. is given against the teacher.

7) The Head Master gave report against the present informant on 25th itself and he made allegations that present informant had picked up quarrel on that day by saying that he wanted to sign the muster roll, he had given abuses to the Head Master and he had given threats of life. As the abuses were given in filthy language, the crime came to be registered for the offences punishable under sections 294 etc. of I.P.C. on 25.9.2014. This first report was given against the informant in respect of incident dated 25.9.2014 and then the informant took the aforesaid steps. The police papers show that some incident did take place and some staff members have given statements that the informant was virtually lifted and he was taken to police station on that day in police vehicle.

8) Though there is possibility that informant was removed from school by using force by police, the fact remains that the informant could not have gone to the school on that day if he had received suspension order on the morning of that day. According to him, he wanted to teach the students of 7th standard on that day. According to him, he was not allowed to do so. There is clear probability that the suspension order was served on him in the past and he knew atleast from 6th September that suspension order was issued against him. In spite of such order made against him, he insisted that he wanted to attend the school and not the head quarter where he was expected to sign the muster. It can be said that by giving F.I.R., by filing complaint, he is trying to pressurise the Education Officer, Head Master and even the Police Officer who took the aforesaid step. Allowing the informant to prosecute the matter would amount to misuse of process of law. This Court holds that relief needs to be granted in favour of petitioners. So, the following order.

ORDER

- (I) The petition is allowed.
- (II) Relief is granted in terms of prayer clause 'C'.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]