

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.848 OF 2019

FAISAL LATIF SHAIKH AND ORS

)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA AND ANR.

)...RESPONDENTS

Mr.Shaikh Ejaaz Noor Mohammad, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent – State.

Mr.Rameshwar Gite, Advocate for Respondent No.2.

CORAM : A. M. BADAR, J.

DATE : 21st JANUARY 2020

P.C. :

1 By this petition, the petitioner/accused is challenging the order dated 19th April 2017 passed by the learned Judicial Magistrate First Class, Nashik, directing issuance of process for offences punishable under Sections 352, 354, 323, 504, 506 read with 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the petitioner/accused. He argued that if money remained to be paid for seven months, it could have remained to be paid for some more months also and the case in hand is an example of extortion of money. He argued that averments made in the private complaint are not in tune with earlier written complaint submitted by the original complainant to the Police Station Officer, Mumbai Naka Police Station, Nashik. He also drew my attention to report of non-cognizable case made by the petitioner/ accused on 12th June 2016. With this, it is argued that the complaint came to be lodged after inordinate delay of three months from the date of incident and the averments made therein are not sufficient to proceed further in the matter. Reliance is placed on the judgment in the matter of the Hon'ble Apex Court in the matter of Professor **R.K.Vijayasathy and Another vs. Sudha Seetharam and Another**¹ as well as that of Division Bench of this court in the matter of **Dilip Uttam Lomate vs. State of Maharashtra**². It is argued that the complainant was not examined on oath and mere verification

1 2019 SCC Online SC 208

2 2019 SCC Online Bom 979

statement came to be recorded. It is urged that the order directing issuance of process is an unreasoned order and therefore, it needs to be set aside as nothing could be yielded by prosecuting the petitioner/ original accused.

3 As against this, on behalf of the respondent/ original complainant it is argued that detailed averments are made in the complaint and the petition itself is not maintainable because of inordinate delay in approaching this court. It is argued that the order directing issuance of process came to be passed on 19th April 2017 whereas petition came to be filed in July 2019.

4 I have considered the submissions so advanced and perused the private criminal complaint so also the order directing issuance of process for offences stated in foregoing paragraphs of this order. The process came to be issued after recording verification statement of the complainant on oath.

5 Requirement for passing order directing issuance of process is finding of sufficient ground to proceed against the accused. In the case in hand, detailed pleadings of complainant made in the complaint makes out offences for which the process came to be issued. Omissions or contradictions in earlier communications are subject matter of defence during trial. There is no necessity to give detailed reasons in order directing issuance of process. Ultimately, the complaint was gaining corroboration from verification statement made by the complainant on oath. In the light of these observations, cited judgments are of no assistance to the petitioner/ accused. It cannot be said that no sufficient grounds for proceeding against the accused were made out by the complainant.

6 The petition is devoid of merits and therefore is dismissed.

(A. M. BADAR, J.)

Arti V.
Khatate

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