

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.6136/2019**

**Siddharth Sambhaji Sansare** .... **Petitioner.**

**Versus**

**The State of Maharashtra & Others** .... **Respondents.**

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Mr.Swapnil R. Chopde Patil, Advocate for the Petitioner.

Mr. A.R. Kapadnis, APP for the Respondent/State.

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**CORAM : A.M.BADAR J.**

**DATED : 27TH JANUARY 2020**

**P.C. :**

1. Heard learned counsel for the petitioner/original complainant. He argued that both the Courts viz. the learned trial court as well as the revisional court had failed to appreciate the fact that incident in question has no nexus with the official duty. Therefore, no question of sanction was there. Therefore, according to the learned counsel for the petitioner, the impugned order passed by the revisional Court is un-merited order.

2. I have considered the submissions so advanced and also perused the private criminal complaint filed by the petitioner before the learned Judicial Magistrate First Class, Manmad (Railway) in May 2015.

2. In the complaint filed in the year 2015, the complainant/petitioner alleged that on 29.10.2005 when he was performing his duty, accused persons who also happens to be employees of Railway took him to the office Deputy Station Master and assaulted him by means of a hammer. Further averments in the complaint are in respect of correspondence made by the petitioner with the employees and Officers of Railway. With this, the complainant had prayed for directing the police to investigate the incident alleged on 29.10.2005. Respondents in the original complaint are all Officers of Railway department including Senior Deputy General Manager of Railways.

3. On these peculiar facts of the complaint of the incident which allegedly took place in the year 2005, the learned trial Magistrate held that all accused persons are public servants

therefore, for prosecuting them sanction as envisaged by Section 172 of Criminal Procedure Code, is necessary.

4. Order dismissing complaint then came to be challenged by the petitioner before the learned Sessions Judge. The learned Sessions Judge also took note of the fact that the incident allegedly took place on 29.10.2005 whereas the complaint came to be lodged in the year 2015. Learned revisional court then observed that remedy of lodging the report with the police and thereafter that of lodging a private criminal complaint was open to the petitioner/original complainant but he did not opt for that remedy. With this, it is observed that as accused persons are employees of the Central Government, prior sanction for prosecuting them was necessary.

5. Perusal of the complaint goes to show that the accused persons were in a position to commit the alleged act of offence they being the co-employees of the petitioner and as such, it can not be said that the act has no nexus with the employment of accused persons. Therefore, it can not be said that the learned

revisional court has committed manifest error of law in rejecting the revision petition. Hence, the following order.

**ORDER**

Petition is dismissed.

**(A.M.BADAR, J.)**