

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

16 CRIMINAL WRIT PETITION NO. 104 OF 2020

Momini Abdul Jafar S/o. Abdul Ajij, **...PETITIONER**
R/o. Kausar Nagar, Near Aman, Lawns,
Zamzam Colony, Beed

VERSUS

1. The State of Maharashtra, **...RESPONDENTS**
Through the In-charge,
Police Station, Beed City,
Tq. & Dist. Beed
2. Sayyad Mahammad Nadim Sayyad Yusuf,
Aged-35 years, Occu-Teacher,
Residing at C/o. Talha Quadri,
I/o. Faisal Park Row Houses,
Near Aliya Masjid Zamzam Colony,
Beed
3. Quadri Parvej S/o. Abdul Gafur,
Aged-35 years, Occu-Teacher,
Residing at Near Hanuman Mandir,
Nagar Road, Roshanpura, Balepeer,
Dist. Beed
4. Mirza Sharekh Beig S/o. Khushid Beig,
Aged-34 years, Occu-Teacher,
Residing at C/o. Mirza Sajjad Baig,
Hatti Khana, Junabazar, Beed

Mr. Arun S. Shejwal, Advocate for the petitioner
Mr. S. N. Morampalle, APP for the respondent/State

CORAM : SURENDRA P. TAVADE, J.

DATE : 30-08-2021

ORAL JUDGMENT:

. Rule. Rule made returnable forthwith, with the consent of the learned counsel for the parties. The petitioner is challenging the order dated 12-12-2019 passed by the Additional Sessions Judge in Sessions Case No. 25 of 2017 below Exh. 44 whereby the application of prosecution was rejected.

2. Facts giving rise to this petition can be summerized as under:-

a. Respondent Nos. 2 to 4 are prosecuted for the offences punishable under Sections 307, 323, 427, 506 read with Section 34 of the Indian Penal Code. It was alleged that the informant used to make the complaints about respondent Nos. 2 to 4. It is alleged that conduct and behavior of respondent Nos.2 to 4 was not depicting as a good teacher. They were indulging in illegal activities. Therefore, the informant used to make an application to the management and many of times action was taken against the respondents. It is the further case of the prosecution that respondent Nos. 2 to 4 assaulted the informant. The prosecution has filed an application (Exh.24) whereby, the prosecution sought to produce the certified/true copies of documents which were submitted by the informant to the Investigating Officer in the case.

The trial court held that the documents sought by the prosecution were different documents than which were seized by the Investigating Officer. Hence, the application came to be rejected. Notices were issued to the respondent Nos. 2 to 4, but nobody appears.

3. Heard learned counsel for the informant and the prosecutor.

4. It is submitted that the prosecution wanted to rely on the documents which were already seized by the Investigating Officer. It is also contended that the Investigating Officer has collected the xerox copies of documents which are very crucial to prove the intention of the respondents to assault the informant. The prosecution has produced the list of documents. It is contended that the copies of documents at Sr. No. 5, 9, 14 to 20 were seized by the Investigating Officer and those are included in the charge-sheet. But, the said documents are in the form of xerox copies. Therefore, the prosecution intend to file certified/true copies of the same. It appears that the trial court has not properly verified the documents sought to be produced by the prosecution in proper perspective and came to a conclusion that those documents are altogether different documents than the seized by the Investigating Officer. In fact, the documents sought to be produced are certified/true copies of documents already on record. Therefore, the prayer of prosecution ought to have been granted by the trial court.

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It appears that the trial court has not considered the nature of documents sought to be produced by the prosecution. With this, I hold that the petition is allowed. The documents sought to be produced at Sr. No. 5,9, 14 to 20 (at page No. 18) are allowed to be produced on behalf of the prosecution.

5. Rule made absolute in above terms.

[SURENDRA P. TAVADE, J.]

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