

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

15 CRIMINAL WRIT PETITION NO.1043 OF 2021

RAJENDRA PETRUS LALZARE

..PETITIONER

VERSUS

NANABHAU S/O. LATE SAHEBRAO LALZARE
AND OTHERS

..RESPONDENTS

...
Petitioner present in person
APP for Respondent No.7: Ms. R. P. Gour
...

CORAM : N.R. BORKAR, J.
DATE : 06.12.2021

PER COURT :-

This petition challenges the order dated 31.07.2019 in Criminal Revision No. 90 of 2018.

2. The petitioner herein had filed an application under Section 156(3) of the Code of Criminal Procedure. The said application was allowed and the concerned police station was directed to investigate into the allegations made by the present petitioner.

3. Pursuant to the said order, crime No. 32 of 2016 for the offence punishable under Sections 420, 467, 468 read with Section 34 of the Indian Penal Code was registered.

4. After investigation 'C' summery came to be filed. The petitioner took exception to the said 'C' summery filed by the investigating officer, by filing protest petition. The learned Magistrate rejected the protest petition and accepted the 'C' summery. Against the said order, revision petition was filed before the Session Court. The order of revisional Court dismissing the revision is impugned in the present petition.

5. I have heard the petitioner in person and learned A.P.P for the respondent State.

6. The petitioner submits that, under Section 397 of the Code of Criminal Procedure it is mandatory for the revisional Court to call record and proceedings of the case, whose order is under challenge. It is submitted that record and proceedings was not called. It is submitted that order impugned, thus needs to be quashed and matter needs to be remanded back to revisional Court. It is further submitted that, the investigation was not properly carried out. It is submitted that the investigating officer has not recorded the statements of material witnesses and same was pointed out to the learned

Magistrate. It is submitted that, considering these facts and circumstances the learned Magistrate ought not to have accepted the 'C' summery and ought to have ordered further investigation in the matter.

7. On the other hand, the learned A.P.P for the respondent State submits that, during the investigation, no encroachment as alleged by the petitioner was found. It is submitted that, no illegality was found in relation to grant of benefit to the respondent No.1 under Gharkul scheme and even the documents filed by the respondent No.1 were found to be genuine. It is thus submitted that, thus 'C' summery was submitted to the learned Magistrate. It is submitted that learned Magistrate after examining papers of investigation, accepted the 'C' summery. It is submitted that no interference is thus called for in the order impugned in the writ jurisdiction.

8. As regards the contention that record was not called by the revisional Court, it appears that the present petitioner has argued the matter at length before the revisional Court. If according to the petitioner record was necessary, then he should have made that request before arguing the matter. The petitioner cannot now raise this grievance of non calling of

record by the revisional court after dismissal of revision petition. I have perused the orders impugned. No perversity is pointed out in the orders impugned warranting interference by this Court in writ jurisdiction. In the result, petition is dismissed.

(N. R. BORKAR)
JUDGE

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