

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5441 OF 2010

Anuradha Anand MahindraApplicant.

Vs.

The State Of Maharashtra & Ors.Respondents.

WITH

CRIMINAL APPLICATION (APL) NO. 41 OF 2011

Anuradha Anand MahindraApplicant.

Vs.

The State Of Maharashtra & Ors.Respondents.

Mr. Subodh Desai a/w Mr. Haabil Vahanavaty and Mr. Naren Nimbalkar
for the Applicant.

Mr. A.R. Patil, APP for the Respondent No.1-State.

None for the Respondent No.2 and 3.

CORAM : A. S. GADKARI, J.
DATE : 25th MARCH, 2021.

ORAL JUDGMENT:-

By the aforementioned Applications under Section 482 of the Code of Criminal Procedure, 1973 (for short, "*the Cr.PC.*") the Applicant has impugned Orders dated 27th April, 2007 issuing process against her in Complaint Case No.4103612/SS/2007 and Complaint Case

No.4103614/SS/2007 respectively

2 Heard Mr. Desai, learned counsel for the Applicant. Despite service, none appears for the Respondent No.2 and 3. Record indicates that, the Respondent Nos. 2 and 3 have filed Affidavit-in-Reply dated 18th March, 2021, in both the matters. Perused record and the said Affidavits.

3 Record indicates that, the Respondent No.2 on behalf of Respondent No.3 has filed two Complaints bearing Nos.4103612/SS/2007 and 4103614/SS/2007, respectively under Sections 328-A and 471 of the Mumbai Municipal Corporation Act. It is alleged in the said Complaints that, the Applicant and accused No.2-M/s. Motoring Speed M.W.Com India Private Limited pasted posters on pole of MSRDC fly-over at Deepak Theater and Elphinstone Road respectively of “*Motoring*” without seeking prior approval/permission of the Corporation in that behalf.

4 At the outset, it is to be noted here that, to the said Complaints, the poster of the said “*motoring*” has not been annexed either before this Court or before the Trial Court. Mr. Desai, learned counsel for the Applicant, on instructions, makes an assertion that, even to the Complaints filed before the Trial Court, the said posters of “*motoring*” are not annexed.

It is to be further noted here that, the Complaints filed against the Applicant by the Respondent No.2 are printed formats and the same are as vague as possible to make out any specific case against the Applicant.

The documents annexed to the Applications revealed that, “*motoring*” is a magazine published by Business Standard Motoring and owned by Business Standard Limited, Nehru House, 4, Bahadur Shah Zafar Marg, New Delhi. The record further indicates that, the Applicant was Director of MW.Com (India) Private Limited. It further clearly appears from record that, said MW.com (India) Private Limited is neither publisher of “*motoring*” nor is related with Business Standard Limited (“Business Standard Motoring”).

The Affidavit dated 18th March, 2021 filed by Shri. Anil Kate, Senior License Inspector of Respondent No.3 is also silent about the said vital aspect. The Respondent Nos.2 and 3 have charged Applicant with criminal liability without there being even iota of material on record to substantiate their claim that, the Applicant in fact was associated with the said company or instrumental in publishing/pasting the said poster of “*motoring*”. If the document annexed at ‘*Exh-B*’ to the Applications thereby describing the name of the Editor and the Owners of the said Business Standard motoring or Motoring Magazine is true and correct, then the name of the Applicant is not appearing therein. The information published by the publisher of the Business Standard Motoring mentions Editors name as “*Bijoy Kumar Y*” and the owner is a Business Standard Limited.

5 The Respondent Nos.2 and 3 cannot be permitted to raise a specious plea that, it is the defence of the Applicant that, she is not

associated with M/s. Motoring Speed and the poster “motoring” is her defence, cannot be accepted as there is no material at all available on record to even remotely infer that, the Applicant has any concern or association with “*motoring*” either in her personal capacity or as a Director of M/s. Motoring Speed”. It further appears from record that, the M.W.com (India) Private Limited has nothing to do with the publication of “M/s. Motoring Speed” and/or Business Standard Motoring. It clearly appears that, the Applicant has been implicated as an accused in the said Complaints out of misconception of facts.

6 In view of the above deliberation, continuation of the said Complaints filed by the Respondent No.2, on behalf of Respondent No.3, would be a sheer abuse of process of law.

 In view of thereof, the Complaints bearing Nos.4103612/SS/2007 and 4103614/SS/2007, respectively filed by the Respondent No.2 on behalf of Respondent No.3, against the Applicant are quashed.

 Rule made absolute in terms of prayer clause (b) in both the Applications.

(A.S. GADKARI, J.)