

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 582 OF 2021

Akhil Anil Chitre

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Tapan Thatte for Petitioner.

Mr.S.S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 11th February 2021.

PC. :

By the present Petition under Article 227 of the Constitution of India, the petitioner has impugned notice dated 3rd February 2021 issued under Section 111 of the Code of Criminal Procedure by the Special Executive Magistrate, Kherwadi Division, Mumbai.

The petitioner is having every right to answer the said notice and to raise all his contentions by appearing before the concerned Authority. After hearing the petitioner, the concern Authority may withdrew the said proceedings or drop it. The apprehension of the learned Advocate for the petitioner that, the said Authority may pass an adverse Order against the petitioner is therefore preposterous for expressing any opinion on the said notice.

2. The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil*, reported in (2010) 8 SCC 329 has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to

maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423*.

3. As noted earlier, in the present case, as simplicitor notice is under challenge, this Court is of the view that, it is not necessary to exercise jurisdiction under Article 227 of the Constitution of India.

4. Petition is accordingly dismissed in *limine*.

[A.S. GADKARI, J.]

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