

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Writ Petition No. 3615 / 2021

Ranjeetsingh Ramsingh Sulyan .. **Petitioner**

Versus.

The State of Maharashtra .. **Respondent**

Ms. Tanvi g. Tapkire, Advocate for the Petitioner.

Mr. A.R. Patil, APP for State.

CORAM : SANDEEP K. SHINDE J.

DATE : 11th OCTOBER, 2021.

P.C. : -

Heard.

1. This petition under Article 227 of the Constitution of India challenges the order 24th August, 2021 in Criminal Revision Application No. 101/2012 passed by the Additional Sessions Judge, Sangli.

2. Background facts : The learned Judicial

Magistrate, First Class Miraj vide order dated 12th March, 2012 refused to discharge the Petitioner from the Regular Criminal Case No.367/2021. When this order was challenged in the Revision, learned Additional Sessions Judge declined to interfere in the order passed by the Magistrate. Thus, aggrieved and dissatisfied with the orders passed by the two above mentioned Courts, Petitioner has approached this Court in its supervisory jurisdiction under Article 227 of the Constitution of India. Prosecution case in brief is that Petitioner is Doctor by profession and attached to Miraj Government Hospital College. He is a member of Medical Board. One Mr. Popat Sukhdev Parekar, Head Constable was referred for medical examination. Petitioner examined Popat Parekar and told him about defect in his eye-sight, which was incurable even after the medical treatment. It appears, the Petitioner demanded an amount of Rs. 50,000/- to ignore the alleged defect and to provide fitness

certificate. Popat Parekar could not pay Rs. 50,000/- to the Petitioner and therefore, Petitioner issued a certificate that Popat Parekar was unfit for joining duties. Whereafter when Popat Parekar approached Dr. Killedar and others, they found there was no defect in his eye-sight. It appears upon a certificate issued by the Petitioner, Popat Parekar was sent on compulsory leave. However, after perusing the certificate issued by Dr. Killedar, order sending him on a compulsory leave was recalled. Thereafter, Popat Parekar filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 wherein, after issuing direction, the Crime No. 37/2011 was registered against the Petitioner at Miraj City Police Station under Sections 177, 197, 384, 385, 466, 469, 471 of IPC.

3. After filing the final report, Petitioner sought discharge by moving an application under Section 239

of Cr.P.C. Learned JMFC refused to pass discharge order. In Revision, the learned Additional Sessions Judge refused to interfere in the order passed by the Magistrate. Thus, the Petitioner is before this Court.

4. Heard. Learned Counsel for the Petitioner and learned Prosecutor for the State.

5. Learned Counsel for the Petitioner would urge that the Petitioner ought not have been prosecuted without first seeking sanction under Section 197 of Cr.P.C. It is argued that the alleged forged medical certificate issued by the Petitioner was in discharge of his official duty and therefore previous sanction from appropriate Government under Section 197 was imperative.

6. The evidence on record on the face of it shows the false document was prepared by the Petitioner,

which obviously cannot be said to be in discharge of official duty. Section 197 of Cr.P.C. does not extend the protective cover to every act or omission done by a public servant in service but restricts its scope of operation to only those acts or omissions which are done by a public servant in discharge of official duty.

7. Whether certificate was forged and or fabricated cannot be gone into in writ jurisdiction. The learned Magistrate has referred to all relevant documents and was satisfied that there was material on record, against the Petitioner-accused suggesting the charge was not groundless and therefore refused to discharge him. The Revisional Court did not find any illegality in the order passed by the learned Magistrate. In consideration of the facts of the case, in the supervisory jurisdiction, I am not inclined to interfere in the impugned order. I do not see any error has been committed by the above

mentioned Courts in exercise of their jurisdiction.
For these reasons, petition deserves no
consideration. It is rejected.

(SANDEEP K. SHINDE, J.)

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by MOHAMMAD
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MOHAMMAD
QAYYUM
Date: 2021.10.13
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Najeeb.