

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Writ Petition No. 594 of 2019

Firozkhan Gauskhan Vs. State of Maharashtra, Acting through DGP, Buldhana
and Others

WTTT

Criminal Writ Petition No.1072 of 2019

Maulana Ayyubkhan Ahmedkhan Vs. The State of Maharashtra through Police
Station Officer, P.S. Amdapur and Others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

WP No.594/2019
Mr. R.M. Tahaliyani, Advocate for the petitioner
Mr. Sagar Ashirgade, APP for the respondents No.1 and 2

WP No. 1072/2019
Mr. A.J. Thakkar, Advocate for the petitioner
Mr. Sagar Ashirgade, APP for the respondent No.1

CORAM : MANISH PITALE, J.

DATED : JULY 12, 2021

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. These two Petitions arise out of a common judgment and order passed by the Sessions Court, Buldhana, whereby Criminal Revision Applications were rejected and an order dated 03/01/2014, passed by the Court of Judicial Magistrate First Class, Chikhli, was confirmed.

3. The petitioner in Criminal Writ Petition No.1072 of 2019 had made allegations against Members of a Trust called “Darul-Uloom-Yusufia”, Malkapur District Buldhana, as regards donations being fraudulently shown to have been received by the said Trust. It was alleged that bogus receipts were prepared and on the basis of such allegations an FIR stood registered on 05/10/2010, against the accused persons. Offences under Sections 420, 465, 468 and 471 read with 34 of the Indian Penal Code were registered against the accused persons, including the petitioner in Criminal Writ Petition No. 594 of 2019.

4. Upon completion of investigation, a “B” Summary Report was submitted. The Court of Judicial Magistrate First Class took into consideration the protest petition and found that the “B” Summary Report deserved to be accepted. At the same time, the accused persons claimed that the complainant deserved to be prosecuted for the palpably false allegations made against the accused persons. It is held that the so-called witnesses, who had vouched for the correctness of the allegations made by the complainant, had been pressurized and that vital documents in the form of alleged bogus receipts were deliberately suppressed by the complainant from the Investigating Officer.

5. As noted above, by order dated 03/01/2014, the Court of Magistrate accepted the “B” Summary Report and rejected the recommendation made therein for prosecuting the complainant. The Sessions Court by the impugned judgment and order dismissed both the Revision Applications and confirmed the order passed by the Magistrate.

6. Mr. Tahaliyani, learned counsel appearing for the petitioner in Criminal Writ Petition No.594 of 2019, invited attention of this Court to statements of witnesses and submitted that, not only was no case made out against the accused persons as correctly found in the “B” Summary Report, but, the complainant i.e. petitioner in Criminal Writ Petition No.1072 of 2019, deserved to be prosecuted for initiating such criminal proceedings against the accused on the basis of false and fabricated material.

7. On the other hand, Mr. Thakkar, learned counsel appearing for the petitioner in Criminal Writ Petition No.1072 of 2019, submitted that the “B” Summary Report ought not to have been accepted. He relied upon material on record and submitted that the Magistrate and Sessions Court had erred in accepting the “B” Summary Report and that there was no question of the complainant being prosecuted.

8. Mr. Ashirgagde, learned APP invited attention of this Court to the fact that the proceedings

in the present case have their origin in clashes between two factions in the aforesaid Trust “Darul-Uloom-Yusufia”, Malkapur District Buldhana. It was submitted that litigations are pending amongst the members of the said Trust. It is submitted that even proceedings before the Civil Court were pending and that in the facts and circumstances of the present case, both the Writ Petitions deserved to be rejected.

9. This Court has perused the common judgment and order dated 17/04/2019, passed by the Sessions Court, Buldhana, as well as the order dated 03/01/2014, passed by the Judicial Magistrate First Class at Chikhli. The material on record clearly indicates that the genesis of the criminal proceedings appears to be long standing clashes between the members of the Trusts called “Darul-Uloom-Yusufia”, Malkapur, District Buldhana. There are litigations pending between members of the Trusts and there appears to be personal enmity and grudge between the parties. Although serious allegations were made against the accused persons, upon investigation, the Investigating Officer decided to submit “B” Summary Report. The material on record does indicate that despite the protest raised on behalf of the complainant, the acceptance of “B” Summary Report by the Magistrate as well as the Sessions Court cannot be said to be erroneous and, therefore, the orders do not deserve any interference.

10. Insofar as the prayer on behalf of the accused for prosecuting the complainant is concerned, this Court does not find any reason to take a view different from the view concurrently taken by the two Courts below. It appears that the bad blood between the members of the said Trusts has resulted in various litigations between them as also an attempt to initiate criminal proceedings against each other.

11. Considering the overall facts and circumstances of the present case, this Court is of the opinion that it would be in the interest of justice to dismiss both the Petitions and to maintain the orders passed by the Magistrate as well as Sessions Court. Accordingly the Writ Petitions are dismissed.

JUDGE