

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

22 CRIMINAL WRIT PETITION NO.220 OF 2017

**SHESHRAO S/O ACHYUTRAO KHISTE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...

Advocate for Petitioners : Mr. Narwade Narayan B.
APP for Respondents State: Mr. R.D. Sanap
Advocate for Respondent No.2 : Mr. Vilas P. Savant

CORAM : ANIL L. PANSARE, J.

DATE : 25th July, 2022

ORDER:

1. The order dated 22nd February, 2016 passed by the learned Judicial Magistrate First Class, Court No.2, Georai below Exh. No. 1 in Regular Criminal Case No. 248 of 20015, which has been upheld by the learned Additional Sessions Judge, Beed vide order dated 31st December 2016 in Criminal Revision Petition No. No. 29 of 2016 has been assailed in the petition.

2. Dispute is between the Trustees of Jagdamba Devi Temple, Talwada. The petitioners alongwith others have filed change report with the Assistant Charity Commissioner, Beed, with documents in support of Resolution dated 26th April, 2013. The change report has been contested by respondent No.2 and others. One of the allegations/complaint was that the resolution is

manipulated. Two lines have been inserted in the resolution. A private complaint was filed.

3. Respondent No.2 has preferred a complaint under section 200 of the Code of Criminal Procedure Code. 1973 (for short 'the Code') before the Judicial Magistrate First Class, Georai. Regular Criminal Case No. 248 of 2015 has been registered. The learned Magistrate, vide order 17th April, 2015, called report of the Police under section 202 of the Code. The report was then received. The learned Magistrate, on 22nd February, 2016, has perused the complaint and the evidence of two witnesses. He has also perused the report. He came to the inference that prima facie, the accused before him i.e. the present petitioners have committed offences punishable under Sections 420, 467, 468, 471 read with 34 of the Indian Penal Code (IPC) alongwith Sections 181 and 193 of IPC. Accordingly, the learned Magistrate has issued process against the accused/petitioners under section 204 of the Code.

4. The said order dated 22nd February, 2016 was challenged before the Sessions Court, Beed in Criminal Revision Petition No. 29 of 2016. The Sessions Court has considered the material placed before it and held that the order of issuance of process to the extent under Sections 420, 467, 468, 471 read with 34 of IPC is legal and proper. However, the said order of issuance of process under section 181 and 193 of IPC is found to be barred by section 195 (1)(b)(ii) of the Code. The Sessions Court held that cognizance of the said offence cannot be taken except on the complaint in writing of the concerned court/competent authority.

5. The learned advocate for the respondent No.2 would support both the orders.

6. I have considered the rival submissions. The basic allegation is that the petitioners have manipulated the resolution dated 26th April, 2013. The Police report also indicate that the two lines in resolution No.4 have been inserted by the petitioners in collusion with each other. The learned Trial Court has taken into account complaint, verification and the statements of witnesses so also the police report before issuing the process against the petitioners.

7. I do not find any error apparent on the face of record. Both the Courts below have considered the relevant material placed before them and have passed reasoned orders. It is not the case of the petitioners that the orders passed are beyond jurisdiction or that there is manifest error of facts or law. The process has been issued considering all attending circumstances.

8. Thus, the petition is liable to be dismissed and stands dismissed accordingly.

9. Record and proceedings be sent back forthwith.

(ANIL L. PANSARE, J.)

JPChavan