

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1024 OF 2019

PRADEEP S/O. VASUDEV DIXIT

VERSUS

THE STATE OF MAHARASHTRA AND ANR

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Advocate for Petitioner : Mr. Bhargav B.Kulkarni

APP for Respondent/State : Mr. R. D. Sanap

Advocate for Respondent No.2 : Mrs. Bharti B. Gunjal (appointed)

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**CORAM : SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE : 30th JUNE 2022.

Per Court :

1. This is a petition for quashing of the proceedings vide R.C.C. No.2/2022 pending before the Judicial Magistrate First Class, Dondaicha, arising out of CR No.113/2018 registered with Dondaicha Police Station, Dhule for the offence punishable under Section 505(2) of the Indian Penal Code, 1860 (IPC for short).

2. Heard learned Counsel for the parties.

3. The FIR is based on the complaint given by the Respondent No.2 to the Police. The complaint mentions that the Informant was a resident of Sahur Village. He was belonging to Scheduled Caste and he was a Social Worker. He has mentioned that on 09.10.2018, he had given his representation to the Tahasildar, Dondaicha and had taken part in some procession. On 01.11.2018, he had participated in Jal Samadhi Jan Andolan. The allegations are that on 03.11.2018, the Petitioner published a news item in the news paper and also on social networking sites objecting to such agitation. According to the first Informant, the Petitioner's intention were *mala fide* and that has caused obstruction in creating facilities by the Government for the villagers and others like the Informant. On this basis, the FIR is lodged. The investigation was carried out and the charge-sheet was filed only under Section 505(2) of the IPC.

4. Learned Counsel for the Petitioner submitted that the news item does not show any ingredient of Section 505(2) of the IPC. The news item was published out of the concern for small children which is clear from the photograph accompanying that news item itself. It is

submitted that this proceeding against the Petitioner is clear abuse of process of law.

5. Learned Counsel for the Respondent no.2 as well as learned APP relied on the statement and the charge-sheet. They submitted that news item intended to spread hatred between two classes.

6. We have considered these submissions and we have perused the concerned news item. We do not find any such attempt or even allegation in the news item which would give rise to creating or promoting feeling of enmity, hatred or ill-will between two groups. The news item is published to oppose such agitation using small children. The photograph itself shows that the small children were made to stand in the water. That was commented on by the Petitioner. It only shows his concern for the small children and we do not find anything wrong in that. The statements referred to by the learned Counsel for Respondent No.2 only speak about the details of the agitation, beyond that, the statements given by witnesses, Lotan Desle, Ganesh Bhadane, Kunal Mali, Bhushan Sonawane do not constitute any offence against the

present Petitioner. In this view of the matter, continuation of proceedings against the Petitioner would amount to abuse of process of law and therefore the proceedings are required to be quashed and set aside. Hence the following order.

ORDER

- (i) The criminal petition is allowed in terms of prayer clause 'D-1'.
- (ii) The proceedings vide R.C.C. No.2/2022 pending before the Judicial Magistrate First Class, Dondaicha, are quashed and set aside.
- (iii) Learned Counsel for Respondent No.2 was appointed by the Court, she shall be paid her fees according to rules.

7. The petition is disposed of.

[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]

Najeeb...