

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.6797 OF 2021

Sadhana Kailash Ugale & Ors. ... Petitioners
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Vishwajit P. Sawant, Senior Advocate i/by Mr.
Prabhakar M. Jadhav for the petitioners.

Mr. R.M. Pethe, APP for respondent no.1/State.

Mr. Santaram Anant Tarale for respondent no.2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 22, 2022

P.C.:

1. The challenge in this writ petition is to the order of issuance of process for offence under sections 395, 323, 427, 452 read with 34 of the Indian Penal Code. The order has been confirmed by the learned Sessions Judge. The petitioners have, therefore, filed present writ petition challenging the order of issuance of process.

2. Mr. Sawant, learned senior advocate submitted that in view of preceding litigation and complaints filed by the petitioners against the respondents including eviction proceedings, the present proceedings are personal vendetta against the petitioners. The allegations made in the complaint are improbable and the

material on record does not inspire confidence as there are material contradictions in the statement of the witnesses. He submitted that filing of present complaint is nothing but abuse of process of the Court.

3. On perusal of the order of issuance of process, it appears that the complainant in addition to examining himself, had examined seven (7) witnesses including a doctor. The learned Magistrate after scrutinizing the statement of the complainant and other witnesses and the material on record held that there are sufficient grounds for proceeding against the accused nos.2 to 6 for offence alleged. The learned Magistrate refused to issue process against accused no.1 based on statement of witnesses as the complainant failed to name the accused no.1 in his statement. The learned Magistrate based on the statement of witness no.8 recorded a finding that when the complainant had been to his clinic was injured and was having bleeding injury.

4. Having considered the reasoning by the learned Magistrate confirmed by the learned Sessions Judge, in my view, there is no perversity in the order of issuance of process. There is no miscarriage of justice.

5. The writ petition is, therefore, dismissed. No costs.

6. Ad-interim relief granted on 4th July 2022 is continued for a period of six (6) weeks from today.

(AMIT BORKAR, J.)