

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.531 OF 2019

Dilip Yashwant Patil	Applicant
versus	
The State of Maharashtra and others	Respondents

Ms.Cristina Carlos, Advocate for applicant.

Mr.Arfan Sait, APP, for State.

Mr.Kishor S.Patil, Advocate for respondent no.6.

Ms.Rukmini Khairnar, Advocate for respondent nos.3 to 5.

Mr.Kunal Waghmare, Advocate for respondent no.2 MCGM.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th September 2022

PC :

1. The applicant has challenged multiple orders relating to different complaints in this application. The applicant is aggrieved by order dated 14th July 2015 passed by learned Metropolitan Magistrate, 41st Court, Shindewadi, Dadar, Mumbai in C.C.No.4100005/SW/2015. The applicant is further aggrieved by order dated 14th February 2019 passed by Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai in C.C.No.564/M/2018, order dated 14th February 2019 passed by learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai in C.C.No.563/Misc/2018, order dated 14th February 2019 passed by learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai in C.C.No.512/M/2018 as well as order dated 14th February 2019 passed by the same Court in C.C.No.511/M/2018.

MANISH
SURESH
THATTE

Digitally signed by
MANISH SURESH
THATTE
Date: 2022.09.21
11:20:42 +0530

2. The impugned order dated 14th July 2015 is passed by learned Magistrate in the complaint filed by respondent no.2 Corporation. Whereas, other complaints were filed by respondent nos.3 to 6.

3. Learned advocate for applicant submits that it is an abuse of process of law to continue proceedings in the complaints filed by the respondents. Vide order dated 14th July 2015 learned Magistrate had dismissed the complaint u/s.203 of Code of Criminal Procedure ('Cr.P.C.') but granted liberty to prosecution to take action u/s.351 of Maharashtra Regional and Town Planning Act. Private complaints were filed by other respondents in which the Court had refused to direct investigation u/s.156(3) of Cr.P.C but directed the Court to proceed with the matter as per Chapter-XV of Cr.P.C. It is further submitted that all the disputes relate to minor alterations. The applicant had preferred application for regularization of the alterations. The complaints are filed out of grudge. Reliance is placed on decision of Supreme Court in the case of **Chitivalasa Jute Mills Vs. Jaypee Rewa Cement** (AIR-2004-SC-1687).

4. Learned advocate Mr.Waghmare appearing for Municipal Corporation submits that the petition is not maintainable in law. The complaint filed by Corporation was dismissed u/s.203 of Cr.P.C vide order dated 14th July 2015 with liberty to proceed u/s.351 of MMC Act. Thereafter private complaint was lodged against petitioner, which was followed by FIR filed by MCGM. Learned counsel for Corporation submits that notice u/s.351 of Maharashtra Regional and Town Planning Act was issued to the petitioner and thereafter FIR was registered u/s.53(7) of Maharashtra Regional and Town

Planning Act. The charge sheet has been filed in the said case which is pending before appropriate Court.

5. Mr.Patil appearing for respondent nos.3 to 6 submitted that petition is pre-mature. It is not maintainable. In one petition the petitioner has sought multiple prayers in respect to different complaints. The respondents were constrained to file private complaints before concerned Court on account of grievances mentioned therein. Learned Magistrate had declined to grant investigation u/s.156(3) of Cr.PC. However, the complainant was granted liberty to proceed with the matter in accordance with Chapter-XV of Cr.PC.

6. Having heard both sides I have also perused the documents on record. It is noted that the application ought not to have been filed with multiple prayers in respect to different cause of actions. The applicant has challenged the orders passed in five different complaints by preferring one application. Be that as it may, even otherwise, the application is devoid of merits. As far as order dated 14th July 2015 is concerned, it is evident that complaint was dismissed u/s.203 of Cr.PC with liberty as stated above. Learned counsel for Corporation has pointed out that notice under the provisions of Maharashtra Regional and Town Planning Act was issued to the applicant, which was followed by registration of FIR. Four private complaints which are subject matter of this application, were filed by respondent nos.3 to 6. On perusal of the impugned orders passed in all these complaints, it can be seen that learned Magistrate has declined to grant prayer u/s.156(34) of Cr.PC, however, the complainant was granted liberty to proceed with the matter u/s.Chapter-XV of Cr.PC. I do not find any infirmity in those

orders. On account of interim relief granted by this Court, the Court of learned Magistrate could not proceed with those complaints. In the light of these facts, no case is made out to grant relief.

7. Criminal Application stands dismissed. Interim relief granted by this Court is vacated. Learned Magistrate, Court No.5, Dadar, Mumbai before whom complaint Nos. C.C.No.564/ M/2018, C. C.No.563/Misc/2018,C.C.No.512/M/2018 and C.C.No.511/ M/2018 are pending, shall proceed with the complaints in accordance with law.

8. Criminal Application is disposed off.

(PRAKASH D. NAIK, J.)

MST