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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 67 OF 2021

UMESH MOTWANI

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA AND ORSRESPONDENTS

Mr. Aditya Pratap a/w Mr. Tanmay Bidkar i/b Aditya Pratap & Associates for the Applicant

Mr. P. H. Gaikwad APP for the State

Mr. Ramesh Pandey a/w Beena Singh for Respondent no. 9

Mr. K. H. Holambe Patil a/w Mr. K. K. Holambe Patil for Respondent nos. 16 to 18

CORAM : NITIN W. SAMBRE, J.

DATE: APRIL 18, 2022.

P.C.:

1) This Application is taken out by Applicant seeking action against Respondent nos. 6 to 9 under Section 195 of the Indian Penal Code after an inquiry under Section 340 of the Code of Criminal Procedure, 1973.

2) Bone of contention of learned counsel for the Applicant is, Respondents in the capacity of office bearers of a Co-operative Society

forged the minutes of meeting dated 20/09/2013 so as to form a basis for presenting Writ Petition being Writ Petition No. 1442/2015. According to him, original resolution does not permit the said Respondents or authorize them to prefer the aforesaid Petition before this Court.

3) I have heard learned counsel at length.

4) Section 195 of the Indian Penal Code which is sought to be invoked provides for punishment – Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is not capital, but punishable with imprisonment for life or imprisonment for a term of seven years or upwards.

5) As such, the contentions are, minutes of meeting dated 20/09/2013 are fabricated so as to create false evidence in the aforesaid Writ Petition. Fact remains that Application was not directed towards securing conviction of any person but was initiated touching the administration of Co-operative Housing Society.

6) That being so, the very provisions of Section 195 of the Indian Penal Code and as a sequel inquiry under Section 340 of the Code of

Criminal Procedure, 1973 cannot be ordered.

7) That being so, no case for showing indulgence is made out.

Application stands rejected.

[NITIN W. SAMBRE, J.]