

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 59 OF 2023

ANIL GANJIDHAR PAWAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Bora Rupeshkumar C.

APP for Respondent No.1/State : Mr. S.R. Yadav-Lonikar

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CORAM : KISHORE C. SANT, J.

DATE : 16th FEBRUARY 2023.

ORDER :

1. Heard the learned Advocates for the respective parties at length.

By consent of the parties, taken up for final disposal, as no notice is required to respondent nos.2 to 5.

2. The petitioner is aggrieved by rejection of his private complaint bearing S.T.C.C. No.05/2017 and thereafter by rejection of his Criminal Revision Application No.30/2017 by order dated 04.12.2021 by the learned Additional Sessions Judge, Dhule.

3. A private complaint was lodged alleging that the respondent no.2 and 3, who are the members of one Society namely Dhule Zilla Parishad Karmachari Sahakari Housing Society. The petitioner is Chairman of the said Society since last six years. The accused nos. 3 and 4 are not members of the said Society. The accused no.1 and 2 had filed a complaint against the petitioner in the Court of learned Judge, Co-operative Court at Jalgaon for cancellation of sale deed etc. and on that there was strained relationship between the parties. Because of such relationship, on 27.04.2016 at around 11:00 pm. the accused in the house of accused no.1, he was playing a song on loudspeaker making loud noise. The petitioner therefore went to him requesting not to play the music in the loud noise. On that the respondent nos.2 to 5 abused him and threatened him. He tried to lodge complaint to the police. However, the police did not register FIR and therefore a private complaint was lodged. The learned Judicial Magistrate First Class, Dhule, however dismissed the complaint by order dated 21.01.2017, after considering the verification and the complaint. It is found that no case is made out as no overact from the side of the accused has been shown by the complainant. It is specifically observed that ingredients

of the alleged offences are not disclosed even prima facie.

4. This order was challenged in the Revision Application No.30/2017. The Revisional Court by order dated 04.12.2021, dismissed the said Revision by holding that the trial Court's order is correct.

5. The learned Advocate for the petitioner vehemently argued the matter. He submits that in the complaint specific allegations are made against the respondent nos. 2 to 5 with the aid of Section 34, the case is made out against all the accused persons. Therefore the learned JMFC, Dhule was not correct holding that there is no overact on the part of the accused. He submits that the learned Revisional Court has also failed to appreciate this aspect and had passed erroneous order.

6. The learned APP submits that by going thorough the record, there are no specific allegations appeared in the complaint and supports the order passed by the learned Additional Sessions Judge.

7. Considering the complaint and the order passed by both the Courts, this Court also found that no case is made out to entertain the petition as there are no allegations made in the entire complaint making out any offence even prima-facie against all the accused. Thus, this Court finds that there is no merit in the petition and the same deserves to be dismissed. Hence the Writ Petition is dismissed and disposed off accordingly.

[KISHORE C. SANT, J.]

Najeeb.