

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2988 OF 2022

Yogesh s/o Balkrushna Kakade

Applicant

Versus

Nimbajirao s/o Ziparu Deore

Respondent

Mr. Afzal Husain M. Vakil, advocate for the applicant.

Mr. C. C. Deshpande, Advocate for the respondent.

CORAM : R. M. JOSHI, J.

DATE : 11th JULY, 2023.

PER COURT :

1. This application is filed challenging the order dated 22nd July, 2022 passed by learned Additional Sessions Judge, Dhule in Criminal Revision Application No. 17/2019 dismissing the revision application challenging the order dated 7th January, 2019 passed by learned Judicial Magistrate First Class, Sakri, issuing process against the present applicant.

2. The basis contention of the applicant is that the proceeding which is under challenge amounts to double jeopardy. It is his contention that in RCC No. 289/2008 informant is the same so also the witnesses in respect of the said incident are same as

compared to the present complaint. It is contended that Court after complete trial has acquitted the applicant from the said offence. It is the contention of learned counsel for the applicant that in respect of the same offence, complaint is not maintainable.

3. Perusal of record indicates that report was lodged by respondent herein against the applicant in respect of the incident allegedly occurred on 1st September, 2018 wherein he was threatened to pay Rs. 50,000/- for not publishing the defamatory article in the newspaper. Offence punishable under Sections 384, 385 and 506 of Indian Penal Code was registered against the applicant. However, as far as proceedings of SCC No. 2988/2015 is concerned, the offence alleged against him is of causing defamation of respondent. Needless to record that the said offence is non-cognizable and therefore, the learned Magistrate, while conducting trial of RCC No. 289/2008, which is filed on police report could not have taken cognizance thereof. STC No. 488/2015 is a private complaint filed by respondent against the applicant for committing act of defamation against him. Thus, apparently, both the proceedings are independent in nature and cover different offences. Thus, there is no substance in the

contention that the present proceedings is hit by the principle of double jeopardy. Hence, application stands dismissed.

4. It seems that the proceedings is of the year 2008. Hence, the learned Judicial Magistrate First Class, Sakri is directed to decide the same finally within a period of six months.

(R. M. JOSHI)
Judge

dyb