

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

CRIMINAL APPLICATION NO.672 OF 2017

Sunil s/o Nagorao Waghmare Applicant.
Vs.
The State of Maharashtra & Anr. Respondents.

.....
Mr.Eknath Dhokale for the Applicant.
Mr. K. V. Saste, APP for State.
Mr. KP Shah for respondent no.2.

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**CORAM: Nitin W. Sambre &
R.N.Laddha, JJ.**

DATE : 7th July, 2023.

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P.C.:

Learned Counsel for the petitioner has made twofold submissions;

a) Section 468 of Cr.P.C. which prescribes limitation of maximum 3 years for taking cognizance has to be appreciated for quashing of offences as the offence had taken place allegedly on 15.03.2017 and till this date the petitioner is not chargesheeted.

b) The petitioner being a Public Servant, proposal for sanction is pending with the State Government for the last six years.

So as to substantiate his contention that the offences charged in FIR does not satisfy the very ingredients of Section 295 of IPC is sought to be established from the Judgment of the Supreme Court in the matter of *Ramji Lal Modi Vs. State of U.P.*¹. Support is drawn from the following observations of the said judgment.

“In the next place s. 295A does not penalise any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but it penalises only those acts of insults to or those varieties of attempts to insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of the outraging the religious feelings of that class. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. It only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class.”

1 1957 AIR 620

2. Learned APP assisted by the learned Counsel for the complainant would urge that issue as to grant of sanction is pending with the State Government. According to them, once the issue is referred to the State Government, limitation prescribed u/s 468 of Cr.P.C. stops running.

3. He further submitted that the very language used in relation to National figure as reflected in FIR amounts to deliberate and malicious act so as to outrage the religious feelings of a class of persons having religious beliefs.

4. We have appreciated said submissions. It is not in dispute that the issue as to grant of sanction is pending with the State Government. In this background, claim put forth by the learned Counsel for the petitioner regarding limitation as prescribed u/s 468 of Cr.P.C. bars prosecution against the petitioner cannot be accepted, once the State Government is duty bound to deal with the proposal for sanction as expeditiously as possible.

5. In view of above background, we direct the State Government to decide the issue of sanction for prosecuting the petitioner as expeditiously as possible, in any case, within 3 months from the date of production of this order by the complainant.

6. Once issue of sanction is decided in favour of petitioner, as a sequel the proceedings shall be closed. However, if issue of sanction is decided against the petitioner, in that case, we grant liberty to the petitioner to approach the Court afresh.

7. Petition stand disposed of.

[R.N.Laddha, J.]

[Nitin W. Sambre, J.]