



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 352 OF 2024

Noah Haidarbhai Noorani

....Petitioner

VERSUS

The State Of Maharashtra

.....Respondent

.....
Mr. A.S. Savale, Advocate for petitioner.

Mr. D.B. Bhangе, APP for respondent-State.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd FEBRUARY, 2024

ORDER :

1. By this petition filed under Article 226 and 227 of Constitution of India, petitioner challenges the order dated 24.01.2024, passed by learned Additional Sessions Judge, Shahada, in Criminal Revision Application No. 12/2023 and order dated 11.03.2019, passed by learned Judicial Magistrate First Class, Shahada in Criminal Miscellaneous Application No. 495/2023.

2. Petitioner filed Criminal Miscellaneous Application No. 495/2023 in the Court of Judicial Magistrate First Class, Shahada alleging that accused named in the complaint committed offence under sections 464, 468, 499, 500 of the Indian Penal Code and

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under sections 66A, 66B, 67 and 67A of Information Technology Act. According to petitioner accused published messages on WhatsApp group namely 'Royal Group' from his mobile number 9826187849 and spread a message that petitioner is thief and petitioner has caused riots between Hindu and Muslim communities. Accused also prepared a pamphlet which was posted on WhatsApp group which contains indecent morphed photographs of girls and women in swimsuit, who are referred as family members of petitioner. Names of women and girls from family of petitioner was mentioned in pamphlet. Women family members of petitioner are shown smoking and drinking in the said photographs. Indecent remarks were made in the said pamphlet. Petitioner therefore forwarded complaint to Superintendent of Police as local police station refused to accept the complaint. However, since no action was taken, petitioner filed private complaint seeking direction under section 156(3) of Cr.P.C.

3. Learned Judicial Magistrate First Class refused to pass order under section 156(3) of Cr.P.C. and kept the matter for recording verification of petitioner under section 200 of Cr.P.C. Petitioner challenged the said order by filing Criminal

Revision Application No. 12/2023, however, Revisional Court has dismissed the revision. Hence, the present petition.

4. Heard learned advocate for petitioner and learned APP for respondent-State. Perused the record.

5. Learned advocate for petitioner submits that to recover cell phone from accused investigation is necessary. It is also necessary to ascertain from accused that as to how many persons he has forwarded obscene and defamatory messages and photographs.

6. Learned APP on the other hand supported the impugned orders.

7. There is no merit in the contention of petitioner that investigation is necessary to recover cell phone of accused. *Prima facie*, petitioner has failed to make out a case convincing the learned Magistrate to issue order under section 156(3) of Cr.P.C. Trial Court is therefore justified in asking petitioner to lead evidence in support of his case. Said order is confirmed by the Revisional Court. Both the Courts have passed well reasoned orders, which are not liable to be interfered with in extraordinary writ jurisdiction.

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8. Petitioner is entitled to convince the Trial Court by leading evidence that offence as alleged by petitioner is committed by accused persons.

9. No case is made out by petitioner to interfere in concurrent orders passed by both the Courts. Writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]