



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 783 OF 2024

**JANARDAN KAMLAKAR NAWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioner : Mr. Shermale K. N.

APP for Respondents/State : Mr. A.V. Lavte

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 24 APRIL 2024

PER COURT :

. Heard. The petitioner is coming with the following prayers :

- A) *This Criminal Writ Petition may kindly be allowed.*
- B) *The Rule may kindly be made absolute by allowing this criminal writ petition, thereby quashing and set-aside the impugned letter dated 08.04.2024 issued by the Learned Police Inspector, Akole Police Station, Tal. Akole, Dist. Ahmednagar i.e. respondent no.4 & 5 in Chapter Case No.60/2024 under Section 110(e)(g), (a)(g) of Code of Criminal Procedure.*
- C) *The Rule may kindly be made absolute by allowing this criminal writ petition, the proceeding i.e. Chapter Case No.60/2024 initiated against the petitioner may kindly be quashed and set aside.*
- D) *The Rule may kindly be made absolute by allowing this criminal writ petition, direction to respondent No.2 to initiate an action against the respondent No.4 and 5 pursuant to provisions of law.*

- E) Pending the hearing and disposal of this Criminal Writ Petition, the impugned letter dated 08.04.2024 issued by the Learned Police Sub Inspector, Akole Police Station, Tal. Akole, Dist. Ahmednagar in Chapter Case No.60/2024 as well as the proceeding i.e. Chapter Case No.60 of 2024 may kindly be stayed.*
- F) Ad-interim prayer clause (E) may kindly be granted.*
- G) Any other suitable and equitable reliefs may kindly be granted in favour of the petitioner.*

2. Learned Advocate for the petitioner would take us through the papers to demonstrate as to how the petitioner is facing the wrath of the concerned police station because of the complaint lodged by him against one Police Officer. He is also pointing out as to how the externment order was obtained which was set aside in an appeal preferred by the petitioner. He also adverts our attention to the order passed by this Court in Criminal Writ Petition No.1481/2023 dated 16.02.2024, wherein he had put up a challenge to the order passed by the Sub-Divisional Magistrate under Section 144(3) of the Code of Criminal Procedure, preventing him from entering into local limits of Akole Police Station and the revenue Village for specific period, by observing that in spite of the setting aside of the externment order, this was the action taken against him circuitously.

3. As can be seen, for the present the petitioner has been challenging a communication whereby the respondent/Police Inspector of the concerned police station has made a proposal to the Executive Magistrate, soliciting an action against him under Sections 110 and 116

of the Cr.P.C. *Ex-facie* the respondent no.4/Police Inspector has no power under these provisions and only the Executive Magistrate has been conferred with the power. As of now, there is nothing to demonstrate that the Executive Magistrate, Akole has initiated any action pursuant to the recommendation made by the respondent no.4. Till the time, he does not take any cognizance and issues any notice to the petitioner, the apprehension being entertained by the petitioner has no basis. It would always be open for him to initiate appropriate action if and when any such action is proposed by the Executive Magistrate.

4. So far as the prayer for direction to the respondent nos. 1 to 3 to initiate action against the respondent no.4, Police Inspector is concerned, according to us even to that extent, unless there is something positive coming from the Executive Magistrate in the form of any purported action under Sections 110 and 116 of the Cr.P.C., it would be premature to say that he has been acting illegally or vindictively.

5. We dispose of the writ petition being premature one.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]