



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 786 OF 2024

Kadubal Govind Gore

....Petitioner

VERSUS

The State Of Maharashtra And Others

.....Respondents

.....
Mr. Vijay B. Jagtap, Advocate for the Petitioner
Mr. R.B. Dhaware, APP for Respondents
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th APRIL, 2024

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

2. By this petition filed under Article 226 of Constitution of India r/w section 482 of Cr.P.C., petitioner challenges the order dated 16.04.2024 passed by Tahsildar, Newasa, under section 144(2) of Cr.P.C.

3. Petitioner is Secretary of Shri. Laxmidevi Mandir Sarvajanik Trust, Varkhed, Taluka- Newasa, District- Ahmednagar. In PTR of the said trust name of petitioner is mentioned as Secretary at serial No. 1. Tahsildar, Newasa issued

Bhagyawant Punde

order dated 16.04.2024, under section 144(2) of Cr.P.C. thereby restraining petitioner from entering in the revenue jurisdiction of Varkhed, Ramdoh, Suregaon, Dahi Shirasgaon, Khamgaon, Gopalpur, Malewadi Dumala villages, Taluka- Newasa and during fair of goddess Laxmi to be held on 27.04.2024 to 28.04.2024.

4. Learned advocate for petitioner has assailed the impugned order contending that four offences registered against petitioner are lodged at the instance of either Vijay Ashru Shirsath or Ashru Bala Shirsath. Vijay Shirsath has filed proceeding under section 41(A) of Maharashtra Public Trust Act against Tahsildar, Lakshadhish Laxman Dane and Kadubal Govind Gore (petitioner). This material is not sufficient to pass order under section 144(2) of Cr.P.C.

5. Learned APP strenuously opposed the petition contending that during earlier fair, petitioner prevented officers from Charity Commissioner's office from sealing donation boxes. Petitioner is likely to indulge in similar act and therefore, it was felt necessary to issue prohibitory orders against petitioner.

6. Perusal of documents placed on record indicate that Vijay Ashru Shirsath has lodged proceeding against Tahsildar,

Manager of Ahmednagar District Central Co-operative Bank, so called Vice President of Mahalaxmi Devi, Varkhed- Lakshadish Laxman Dane and so called Secretary of Mahalaxmi Devi Varkhed- Kadubal Govind Gore (petitioner), under section 41(A) of Maharashtra Public Trust Act claiming that during the fair of goddess Inspector from the office of Charity Commissioner be appointed, Tahsildar be directed to maintain law and order situation, panchnama in the presence of inspectors be conducted of donations received during fair and amounts collected in the donation boxes, so also articles donated by the devotees and those be deposited in the account of trust.

7. There appears substance in the contention of petitioner that four offences registered against petitioner under Atrocity Act are at the instance of Vijay Ashru Shirsath and Ashru Shirsath. Prima facie, possibility cannot be ruled out that due to the dispute in the trust petitioner is implicated in the offences registered at the instance of Vijay Shirsath and his father.

8. In proposal dated 10.04.2024 submitted by PSI, Newasa Police Station through PI, Newasa Police Station it is mentioned that in the year 2023 Santosh Rambhau More was

appointed as Inspector during the fair of Mahalaxmi goddess between 10.04.2023 to 15.04.2023. Petitioner prevented Santosh More from sealing donation boxes and obstructed government work. Hence, N.C. No. 443/2023 under section 186 and 187 of IPC is registered against petitioner and due to said incident law and order situation was created. Learned APP has relied on this aspect justifying the prohibitory order passed against petitioner.

9. This aspect can be taken care of by issuing appropriate direction, but material on record is not sufficient to issue prohibitory order against petitioner, under section 144(2) of Cr.P.C. While passing the impugned order, Tahsildar has exceeded his jurisdiction and has considered irrelevant aspects and has ignored relevant aspects. Hence, impugned order is liable to be quashed and set aside.

10. In the result, writ petition is allowed.

11. Impugned order dated 16.04.2024, passed by respondent No. 3 is hereby quashed and set aside.

12. It is made clear that in case petitioner obstructs the Inspector of Charity Commissioner's office from doing their duty and sealing donation boxes, the petitioner shall be taken into custody and by preparing panchnama donation boxes shall be sealed.

Rule made absolute in the above terms.

[NITIN B. SURYAWANSHI, J.]