



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CRIMINAL WRIT PETITION NO. 930 OF 2023

Santosh S/o Sukhdeo Tezad @ Santosh S/o Sukhdeo Tayzad
VERSUS

Dnyaneswhar S/o Shankarrao Labade and another

Advocate for the Petitioner : Mr. J.V. Deshpande and Mr. S.N. Dudhate

Advocate for Respondent No.1 : Mr. S.R. Andhale

APP for Respondent No.2: Mr. P.K. Lakhotiya

.....

CORAM : SHIVKUMAR DIGE, J.
DATED : 25th JUNE, 2024.

PER COURT :-

1. By this writ petition, the petitioner has challenged the order dated 26.5.2023 passed by the learned Sessions Judge, Vaijapur in criminal revision application No. 17 of 2021.

2. It is the contention of learned counsel for the petitioner that the petitioner has filed a private complaint against respondent No.1 and other two persons for the offences punishable under Sections 420, 471, 467, 468 r.w. 34 of I.P.C. The learned counsel further submitted that respondent No.1 and one Raju Gaikwad cheated the petitioner on the assurance that they will provide service to the son of petitioner and on that count they have obtained Rs.20,00,000/- from the petitioner. The petitioner has filed a private complaint against respondent No.1 and other accused persons. The petitioner had also

filed complaint before the police about the said incident. In the said private complaint, the learned J.M.F.C. Vaijapur issued process against all accused including respondent No.1. Respondent No.1 had challenged the said order before the learned Sessions Judge, Vaijapur. In the revision application, the learned Sessions Judge, Vaijapur has allowed the revision and set aside the issue process order issued against respondent No.1, which is illegal. Learned counsel further submitted that in the complaint filed before the Magistrate, the petitioner has specifically mentioned about the role played by respondent No.1 and how respondent No.1 and other accused persons cheated the complainant. But this fact is not considered by the learned Sessions Judge. Hence, requested to allow the writ petition.

3. It is the contention of learned counsel for respondent No.1 that there are no allegations in the complaint filed before the J.M.F.C. against respondent No.1. All allegations are against the accused No.1 Raju Gaikwad. The learned Sessions Judge has considered all these aspects and on that ground the impugned order is passed, which is legal, valid and no interference is warranted. He requested to dismiss the writ petition.

4. Learned A.P.P. submitted that appropriate order be

passed.

5. I have heard all learned counsel. Perused the impugned order. While passing the impugned order, the learned Sessions Court has observed that there are no allegations against respondent No.1 mentioned in the complaint. On that ground, the Sessions Judge has set aside the issue process order passed against respondent No.1. I do not find any infirmity in it. In my view, in the complaint filed by the petitioner the allegations are made against accused No.1 Raju Gaikwad. There are no allegations mentioned against respondent No.1. It is alleged that Raju Gaikwad and others cheated the complainant. In the private complaint as well as the complaint filed before the police, the petitioner has not referred about the role of respondent No.1. There are no allegations against respondent No.1. The Sessions Court has rightly set aside the issue process order passed against respondent No.1. In view of the above, I pass the following order:-

O R D E R

Writ petition is dismissed.

(SHIVKUMAR DIGE, J.)