

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2752 OF 2024

Ranjan Rupasi Nisar

.....Petitioner

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Jenish D. Jain for the Petitioner.

Mr. Vinod Chate, A.P.P. for the Respondent-State.

Mr. Anup A. Kamble for Respondent No. 2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 11th JULY 2024

PC.:-

1) This is a classic example how even the Advocates are also taking the judicial system for granted. The startling facts revealed during the course of today's hearing are briefly stated as under :

a. Present Petition is filed by the accused person. Petitioner is an accused in C. R. No. 285 of 2024 dated 10th April 2024 registered with Kandivali (West) Police Station, Mumbai for the offence punishable under Section 509, 500 & 506 of the Indian Penal Code, 1860 and under Sections 67 & 67(A) of the Information and Technology Act, 2000.

b. The Petition is filed for quashing of the said crime on the

premise that, the Petitioner and the Respondent No. 2 have settled the matter amicably.

2) On 1st July 2024 the learned Advocate for the Petitioner sought time to file an additional Affidavit with the Consent Terms between the parties annexed thereto.

2.1) At his request, the Petition was adjourned on today's date.

2.2) Today when the Petition was called out for hearing, at the outset Mr. Jenish Jain made a palpably false statement that, we had directed the Petitioner to file an additional Affidavit placing on record the Consent Terms. The said statement is absolutely contrary to the submissions of learned Advocate for the Petitioner as recorded in paragraph no. 1 of Order dated 1st July 2024.

3) In the Affidavit dated Nil May 2024 affirmed before a Notary Public viz. Mr. R. B. Yadav of Malad (East), Mumbai, in paragraph no. 3 the Respondent No. 2 has stated that, the Complainant/Respondent No. 2 has insisted the Petitioner to move this Petition with her consent Affidavit. It is further stated that, she has insisted the Petitioner to file this Petition for quashing of the said C. R. No. 285 of 2024 registered with Kandivali (West) Police Station, Mumbai i.e. the present crime with certain conditions which are mentioned in the Consent Terms. The said Affidavit is not signed by any Advocate and the portion wherein the words 'Before Me' and 'Advocate for Respondent No. 2' is blank. Despite the said fact, the said Notary Public

has got the said Affidavit affirmed before him without insisting the concerned Advocate to identify the Respondent No. 2 by placing his signature.

4) At this juncture, it be noted here that, Advocate Mr. Anup Kamble has filed vakalatnama on behalf of the Respondent No. 2. Upon a query raised by this Court to him he fairly conceded the fact that, he has not signed the said Affidavit and it is drafted by Mr. Jenish Jain, Advocate of the Petitioner himself and got it affirmed before the concerned Notary Public.

5) In the additional Affidavit dated 3rd July 2024 filed by the Petitioner, in paragraph no. 2 again a palpably false statement is made that, this matter was listed before this Court on 1st July 2024 wherein this Court directed the Petitioner to bring on record the Consent Terms so executed between the parties herein. This is again contrary to the paragraph no. 1 of Order dated 1st July 2024. In the Consent Terms dated 17th May 2024 annexed to the additional Affidavit dated 3rd July 2024, the column of date is blank and the date of affirmation of said Consent Terms have to be ascertained from the seal put up by the said Notary Public Mr. R. B. Yadav. We thus require the Notary Public to explain as to how he has put his seal on an undated document, affirming the same, without an Advocate identifying the executor of the Affidavit.

6) It appears from the seal put up by a Notary Public that, he has

been appointed by the Government of India.

6.1) In view thereof, we pass the following directions :

- a. Issue notice to Mr. R. B. Yadav, Advocate-Notary having address at Vashe Compound, Maheshwar Nagar, Appapada, Malad (East), Mumbai – 400 097.
- b. The said notice be served through Kandivali (West) Police Station, Mumbai.
- c. The Senior Inspector of Police attached to Kandivali (West) Police Station, Mumbai is directed to depute a responsible Police Officer to serve the notice issued by this Court upon Mr. R. B. Yadav.

7) Stand over to 25th July 2024.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

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by GITALAXMI
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KOTAWADEKAR
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