



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2741 OF 2010

Dr.Ashrubha s/o Annasaheb Majmule,
Age : 54 years, Occ : Service,
R/o Rural Hospital, Georai,
Tal. Georai, District Beed.

...Applicant

- *Versus* -

1. The State of Maharashtra.
Through Police Inspector,
Police Station, Georai,
District Beed.
2. Ramchandra S/o Haribhau Giri,
Age Major, Occ. Medical Officer,
R.M.O. Civil Hospital, Beed,
District Beed.
3. Radhesham S/o Rameshlal Jaju,
Age Major, Occ. Medical Officer,
Civil Hospital, Beed, District Beed.
4. Vasistha S/o Laxman Jadhav,
Age Major, Occ. Medical Officer,
District Hospital, Beed, District Beed.
5. Pradeep S/o Devidas Joshi,
Age Major, Occ. Retired Medical Officer,
District Hospital, Beed, District Beed.
6. Gopal S/o Vasantryao Tekale,
Age Major, Occ. Asstt. Director Leprosy,
Beed, District Beed.
7. Ashok S/o Laxmanrao Deshpande,
Age Major, Occ. Civil Surgeon,

Buldhana, Dist.Buldhana.

8. Shivaji S/o Savalaram Joshi,
Age Major, Occ. Pensioner,
R/o Beed, Dist. Beed.
9. Ratnakar S/o Bhalchandra Kulkarni,
Age Major, Occ. Civil Surgeon,
Parbhani, Dist. Parbhani.

...Respondents

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Shri V.P. Sawant, Advocate for the applicant.

Shri C.V. Bhadane, APP for respondent No.1/ State.

Shri Ashok Tapse, advocate h/f Shri P.D. Suryawanshi, advocate
for respondent Nos.2 and 4.

Shri Sanjay S. Dudhane, advocate h/f Shri Vikram R. Dhorde,
advocate for respondent Nos.3, 5 and 8.

Shri C.C. Deshpande, advocate for respondent No.7.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 04 December 2025

ORAL JUDGMENT :-

1. By this Criminal Application filed under Section 482 of the Code of Criminal Procedure, the applicant has challenged the order dated 25.05.2010 passed by the learned Ad-hoc Additional Sessions Judge, Beed, in Criminal Revision Petition No.16/2010 whereby, the order dated 15.11.2008 passed by the learned Judicial Magistrate, First Class, Georai, in M.C.A. No.215/2008 directing investigation under Section 156(3) of the

Code of Criminal Procedure, is set aside. However, the learned Ad-hoc Additional Sessions Judge, Beed, vide the impugned order dated 25.05.2010 had made clear that its observations shall not prejudice the right of the complainant to prosecute the accused after complying the requirement of Section 197(1) of the Code of Criminal Procedure.

2. Rule was issued in this Criminal Application on 20.01.2011.

3. The applicant/ complainant filed the private complaint bearing MCA No.215/2008 in the Court of the learned JMFC, Georai, against respondent Nos.2 to 9/ original accused, for offences punishable under Sections 177, 182, 193, 194, 195, 211, 219, 468, 471, 511 and 34 of the Indian Penal Code and under Sections 3(1)VIII, IX, X and 3(2)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was alleged that the applicant/ complainant was the Medical Officer attached to the Civil Hospital, Beed. The accused persons are alleged to have prepared forged and false documents thereby indicating that the applicant/ complainant has misappropriated the amount and accordingly, the the complaint

was lodged against the applicant with the Beed City Police Station. However, the police submitted the B summary report. Therefore, the applicant/ complainant lodge the instant private complaint against the accused alleging that they intentionally filed false and vexatious criminal complaint against him. Thereafter, the learned JMFC vide order dated 15.11.2008 was pleased to issue the order under Section 156(3) directing to investigate the matter. This order dated 15.11.2008 was challenged by the accused in revision and after giving detailed reasons, the learned Ad-hoc Additional Sessions Judge vide the impugned order was pleased to set aside the order dated 15.11.2008. Hence, the instant Criminal Application.

4. Shri Sawant, learned advocate for the applicant/ complainant, submits that the learned Sessions Judge was pleased to observe that the learned JMFC before directing investigation under Section 156(3), has not considered that there is no sanction obtained under Section 197 of the CrPC because the accused are government servants. According to learned advocate, the sanction under Section 197 is required at the time of taking cognizance of the matter and the learned JMFC has

only issued the directions to investigate the matter. Therefore, if at all the sanction is required, that would have been at the stage of taking cognizance of crime i.e. at the time of filing of the charge-sheet against the accused. Learned advocate, therefore, submits that the impugned order passed by the learned Sessions Judge is patently illegal and is liable to be quashed and set aside.

5. *Per contra*, learned advocates appearing for the respective contesting respondents/ accused, submit that as per Section 197 of CrPC, the learned Magistrate is required to obtain sanction even at the time of issuing an order under Section 156(3). Therefore, the observations of the learned Sessions Judge in that respect, are correct and require no interference. In support of their submissions, learned advocates have relied upon the judgment delivered by this Court at Goa Bench in ***Dhanu Bogati and another vs. The State of Goa and another, 2018 ALL MR (Cri) 2710*** wherein, by relying on the judgment of the Honourable Supreme Court in ***Anil Kumar vs. M.K. Aiyappa, (2013) 10 SCC 705***, this Court in unequivocal terms held that the sanction under Section 197 is necessary before the learned Magistrate could refer the matter for investigation to the police

under Section 156(3). Learned advocates for the contesting respondents/ accused, therefore, prayed for dismissal of this application.

6. In view of the above submissions and in view of the settled position of law as reiterated in *Dhanu Bogati (supra)*, learned advocates for the respondents/ accused are right in submitting that the sanction under Section 197 is required before the learned Magistrates refers the matter for investigation to the police under Section 156(3). In view of this settled position, the learned Ad-hoc Additional Sessions Judge has rightly passed the impugned order and there is no scope of interference. As such, this Criminal Application fails and is, therefore, dismissed. Rule is discharged.