



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

905 CRIMINAL WRIT PETITION NO. 1622 OF 2024

**DHONDIRAM KONDIBA KADAM
VERSUS
DATTA MANOHAR KADAM AND OTHERS**

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Advocate for the Petitioner : Mr. Swami Sandeep Chandrakant
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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 10.01.2025**

PC.:-

1. Heard the learned counsel appearing for the Petitioner at length.
2. By the present petition, the Petitioner takes exception to the order dated 18.05.2024 passed by the Revisional Court in Criminal Revision Application No.13/2023 thereby set aside order dated 14.06.2023 passed by the learned JMFC, Ahmedpur in Criminal Misc. Application No.199/2021 whereby process issued against the Respondents for the offence punishable under Section 379 read with Section 34 of the I.P.C.
3. The present Petitioner is the original Complainant and the Respondents are the Original Accused in Criminal Misc. Application No.199/2021. For the sake of brevity, I would like to refer parties to the present petition in their original capacity.

4. The Complainant filed Criminal Misc. Application No.199/2021 alleging that, he is owner of Tractor bearing No.MH-24-N-4799 along with Trolley manufactured by Gurukrupa Engineering Works, Ahmedpur. Since past 3-4 months, he parked Tractor and Trolley besides his house. However, on 17.10.2021, at about 12.30 a.m., he did not notice the Trolley. Therefore, he took search of Trolley but it was not found. Therefore, he visited Ahmedpur Police Station on 21.09.2021 to lodge a Report but the Police refused to register the FIR.. Therefore, on 18.10.2021, he sent Report by RPAD to the Superintendent of Police, Latur. Inspite of this no cognizance was taken.

5. The Complainant further alleged that, the Accused Nos.1 to 7 issued him threat to withdraw the complaint against them, failing which, the complainant will have to face consequences. He made inquiry about the trolley with the accused but the accused persons stated that, they would not return him the Trolley. Therefore, the accused have committed offence punishable under Section 379 read with Section 34 of the I.P.C.

6. On 30.11.2021, the learned JMFC, Ahmedpur, recorded verification of the complainant. On 14.06.2023, the learned JMFC passed an order and issued process against the accused persons for the offence

punishable under Section 379 read with Section 34 of the I.P.C. Being aggrieved by said order, the Accused filed Criminal Revision Application No.13/2023 under Section 379 of the Cr.P.C., and questioned legality and validity of order of issuance of process passed by the learned JMFC, Ahmedpur, in Criminal Misc. Application No.199/2021 on 14.06.2023.

7. On 18.05.2024, the learned Revisional Court passed the impugned order holding that, on 17.10.2021, the Tracor Trolley was allegedly stolen by unidentified persons. On 09.11.2021, the Complainant allegedly made enquiry with the Accused persons as to the whereabouts of Trolley, however, the accused persons allegedly threatened him and stated that they would not return the trolley. Except this averment nothing has been brought on record to show that the accused persons have stolen the Trolley. It is further observed that, the statements made by the Complainant are of general nature and that too forthcoming from the mouth of the accused that they would not return the trolley which is highly improbable. It has come on record that the trolley is a heavy vehicle and both Tyres of the Trolley were punctured. Under these circumstances, it is not possible that the accused persons would remove the trolley without help of a heavy machinery and the complainant or his family members could not notice the same incident. However, the averments made in the complaint are very much silent and it

does not fulfill essential ingredients to constitute an offence punishable under Section 379 of the Cr.P.C. Therefore, the learned Revisional Court passed the impugned order and set aside order of issuance of process, which does not appear to be perverse, illegal and bad in law.

8. In view of above, I am of the considered view that no *prima facie* grounds are set out to interfere with the findings recorded by the learned revisional court. Hence, the present petition is dismissed. No order as to costs.

[Y.G. KHOBRADE, J.]