

Order passed below Exh. 1 in M.C.C. No.01/2018**BHARAT ---Vs---GAJANAN+2**

1] The application is filed against the non-applicants under section 156(3) of the Code of Criminal Procedure. The facts giving rise to the application are epitomized as under.

2] It is the contention of the applicant that, he is a president of Shri Sevadas Sikshan Prasarak Mandal (Sansthan) and proposed accused no. 1 is nominal member of Shri Sevadas Sikshan Prasarak Mandal. He further submitted that, proposed accused no.2 was a teacher in Vsantrao Naik Vidyalay, Palodi. Tal. Manor. It is further submitted that, on the basis of false and bogus documents and without having any right, Educational Officer appointed proposed accused no. 2 as a Headmaster of the Vsantrao Naik Vidyalay, Palodi. Tal. Manor. He further submitted that, proposed accused no.3 is a member in Shri Sevadas Sikshan Prasarak Mandal. Applicant further submitted that, he is elected as a President of Shri Sevadas Sikshan Prasarak Mandal by the managing committee (कार्यकारी मंडळ) and matter in respect of such change is pending before Assistant Charity Commissioner, Washim.

3] Applicant further submitted that, the Vasantrao Naik Vidyalay come under Shri Sevadas Sikshan Prasarak Mandal and in the said vidyalay there were three vacant post of pune, one vacant post of junior clerk and two vacant post of teacher and these all vacant post were fill up, except one post of teacher and approval in that regard is also given by Educational Officer. But proposed accused no. 2, due to his personal interest did not mentioned the name of newly appointed candidates in the muster of payment, for the reason of which the newly appointed candidates have approached to the Hon'ble High Court, Bench at Nagpur and the said matter is pending before the Hon'ble High Court and the said fact is also known to proposed accused no.2 and 3.

4] He further submitted that, there is no vacant post in the said Shri Sevadas Sikshan Prasarak Mandal as well as proposed accused no.1 is not any officer in the said sansthan and not even member any more in the sansthan and the said fact is very well within the knowledge of proposed accused no.1. Despite of this accused no.1 in collusion with proposed accused no.2 and 3 without having any right, by making false and bogus document published false notice on 14/11/2017 in daily news paper namely "Sakal" in respect of vacancy of post in the said sansthan. For the reason of which, applicant orally asked to proposed accused no.2 about this, to which he reply to applicant that, proposed accused no.1 and 3 have given permission to him for the same. Hence, applicant submitted that, proposed accused no.2 and 3 are equally liable for the said act. He further submitted that, due to such act of proposed accused, the interest of public is violated at large and they cheated to thousands of youth, specially those who are educated and jobless.

5] He further submitted that, in the said notice of news paper the reference of Writ Petition no. 5059/17 is given, which is not related with this Sansthan, but related with Buldhana Sansthan. He further submitted that, the proposed accused have no right of such publication and such rights are vested only with Management Committee and president of Management Committee i.e. applicant.

6] Applicant further submitted that, though he lodged the report dated 16/11/2017 against the non applicants, police have not taken action against them. Thereafter, applicant also approached to higher authority without having any fruits. It is the contention of applicant that, alleged acts of proposed accused persons comes within the purview of the offence punishable under section 420, 467, 468, 471, 406, 500, 109 r/w section 34 of the Indian Penal Code for which investigation needs to be directed. Hence applicant approach to this court and prayed for directing the Manora Police Station to investigate the matter and to register the offence against the

proposed accused.

7] On giving thoughtful consideration to the contention of the applicant and after going through the contents of documents filed on record, I am of the opinion that no cognizable offence is made out from the said contention so as to warrant ordered under section 156 (3) of Criminal Procedure Code.

8] On going through the entire application of the applicant, it reveals that, there is internal dispute between the applicant and proposed accused persons. The applicant in his application submitted that without having any right Education Officer has appointed the proposed accused no. 2 as a Headmaster. Here, it is necessary to mention that complainant has nothing to do with the said appointment, it just the matter in between the concern authorities, who are vested with such powers. Further why applicant has mentioned about said appointment in the present application is also not acceptable to the common sense of prudent man.

9] Applicant further submitted that, he is elected as president of Sansthan and matter in that regard is sub-judice before Assistant Charity Commissioner. He further submitted that, proposed accused no. 2 due to his personal interest not mention the name of newly appointed candidates in the muster of payment and matter in this respect is pending before the Hon'ble High Court. From the above discussion it can be very well clear that, already disputes are going in between the applicant and proposed accused persons and matters in that respect are pending.

10] Applicant further submitted that, proposed accused persons have published the vacancy of post in the said Sansthan without having any right. Applicant further submitted that, he orally asked to proposed accused no.2 about publication of such notice in daily news paper, to which proposed

accused no.2 reply that, accused no. 1 and 3 have given their consent for the same. Therefore, applicant submitted that, proposed accused no. 1 and 3 are equally liable for the same. The said statement of the applicant in respect of proposed accused no.1 and 3 is such a vague in nature, that no prudent man will believe in it.

11] Applicant further submitted that, there is no vacancy of post in the said Sansthan and the said fact is very well known to the proposed accused persons, despite of this they have published the false notice in daily news paper namely "Sakal" and cheated to public at large and specially to the thousands of educated and jobless youth and also to the Sansthan. For the sake of argument if at all it is consider that, proposed accused have published the said notice and cheated the thousands of youth. But to make the complaint against these proposed accused not a single youth come forward before the Court for the redressal of their grievance, which also surprising one.

12] It is seen that, provisions of 154 of the Criminal Procedure Code required that information relating to the commission of cognizable offence needs to be given to the police officer. In my opinion, vague and bland allegations cannot be term as "information" and as contemplated under section 154 of Criminal Procedure Code. Thus on this ground itself the applicant is not entitled for any relief under section 156(3)of Criminal Procedure Code.

13] It is further seen that the grievance of the applicant is purely related with educational institution and it's internal management. The merit of the claim of the applicant can very well be adjudicated by the concern higher authorities of educational department. It is further appears from the contents of the application that, the applicant has made the application to settle the scores with the proposed accused persons as the things between them are not going well which reflects from the application itself.

14] Further, it is held by Hon'ble Apex Court in the case of **Mrs. Priyanka Srivastava V/s State of UP, Criminal Appeal No.781/12** that, When a Complaint seeking an action under Sub-Section (3) of Section 156, it must be accompanied by an affidavit in support. Further the affidavit must substantially comply with the requirements set out in Chapter VII of the Criminal Manual, which is also missing in the present application. Therefore, on the said ground also this application is not tenable in the eyes of law.

15] Further to clarify that, the proposed accused No.2 do not come within the preview of "public servant" learned advocate for the applicant has filed on record bulk of citations of Hon'ble Supreme Court and Hon'ble High Court. For the sake of argument if at all it is presumed that, proposed accused No.2 do not come within the preview of public servant, then also this application is not tenable for the reasons which has been discussed above.

16] Considering all the above facts, circumstances and in view of the above discussion, I am of the opinion that no case is made out for passing order of registration of offence against the proposed accused under section 156(3) of Criminal Procedure Code. Therefore, the application is liable to be rejected. Hence, following order

ORDER

- 1- Application is hereby rejected.
- 2- In view of above order, matter stands disposed off.

sd/-

(Vivek V. Nivghekar)

Date: 22/05/2018

J.M.F.C., Manor , Dist.Washim