



MAHAVITARAN

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HRD/O&M/F.No.545

Maharashtra State Electricity Distribution Co.Ltd.

Estrella Batteries Expansion Building,

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Matunga, **Mumbai – 400 019.**

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ADMINISTRATIVE CIRCULAR NO. 476 DATE 17 / 12 / 2013

Sub : Hon'ble High Court decision in Criminal Application No.4163 of 2013.

While carrying out the duties in some of the instances the Officers and employees of the Company are being manhandled and in such cases the counter F.I.R. are filed against such employees. As such, it becomes difficult for the individual employee as well as concern office to handle the situation.

2. Recently, the Hon'ble High Court, Mumbai, Bench at Aurgabad has given their decision on 07/10/2013 in a similar case No. 4163/2013 filed by Shri Navalkishor S. Jaiswal, Jr. Engineer, Tirthapuri and quashed the F.I.R. filed under SC ST Act against him. The copy of order dated 07/10/2013 of Hon'ble High Court, Mumbai is enclosed herewith.

3. All the concerned are requested to bring this order to the notice of all Officers and employees working under their jurisdiction. Also, the same may be brought to the notice of Company advocates who are appearing in the cases on behalf of the Company where the Company employee has been manhandled or where such complaints are lodged against the employees of the Company while performing their duties.

4. This Administrative Circular is available on Company's Intranet and no hard copy will be sent to any Office.

Encl. : As above.

(Sandesh E. Hake)
Chief General Manager (HR)

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

CRIMINAL APPLICATION NO.4163 OF 2013

Navalkishor s/o Santosh Jaiswal
Age 28 years, Occ. Service as Deputy
Engineer with M.S.E.D.C.L., Tirthapuri,
R/o Tirthapuri, Tq. Ghansawangi
District Jalna.

... APPLICANT

VERSUS

1. The State of Maharashtra
through Superintendent of Police,
Jalna.
2. Police Inspector,
Police Station, Gondi,
Tq. Ghansawangi,
District Jalna.
3. Haribhau Gitaram Sable,
Age 40 years, Occ. Agri.,
R/o Tirthapuri, Tq. Ghansawangi
District Jalna

... RESPONDENTS

.....
Shri S.M. Godsay, Advocate for applicant
Shri M.M.Neralikar, A.P.P. for respondent Nos.1 and 2
Shri R.M. Deshmukh, Advocate for respondent No.3

.....

CORAM: K.U. CHANDIWAL &
A.I.S. CHEEMA, JJ.

DATED: 7th October, 2013.

ORAL JUDGMENT (Per K.U. Chandiwal, J.) :

1. Rule. Rule made returnable forthwith. Heard finally
by consent of parties.

2. Heard extensively. The applicant, a Deputy Engineer, in service with Maharashtra State Electricity Distribution Company Limited (MSEDCL), seeks quashment of proceedings initiated by respondent No.3, vide F.I.R. in Crime No.II-3027/2013, registered for offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short SC ST Act), registered with Gondi Police Station, Taluka Ghansawangi, District Jalna. The case of respondent No.3 is, on 7.8.2013 at around 10.00 a.m., while he had been to the office of applicant, he filled in Form No.8-A showing residence and paid Rs.600/-. The applicant browsed the papers. Acknowledgement was sought by the respondent No.3. The applicant got outraged and abused in caste. This has been witnessed by named persons.

3. Mr. Godsay, learned counsel for the applicant took us to the history in the matter. MSEDCL had undertaken a drive for detection of theft of electricity and recovery of arrears. The applicant followed the pursuit of his superiors. In the said village, various offences were registered, including 4/5 persons who are prominent residents of Tirthapuri village.

4. On 7.8.2013 at around 10.30 a.m., a mob of 50 to 60 persons barged at the office of applicant and he was

manhandled. He was attempted to be doused with poisonous liquid. This has resulted in lodging F.I.R. Learned counsel says, the questioned F.I.R. is a counter to the earlier events and is a classic example of misuse of powers vested under SC ST Act.

5. In normal circumstance, while entertaining application under Section 482 of the Criminal Procedure Code, the Division Bench would not quash the proceedings as at the said stage the matter is most often in a hazy condition and Court has no possible material to probe genuineness of the grievance of either the original complainant or the aggrieved person. However, in the instant case, we are compelled to exercise such powers under Section 482 of the Criminal Procedure Code, as indicated in celebrity judgment in the matter of R.P. Kapur Vs. State of Punjab (AIR 1960 SC 866), the Supreme Court has summarized three categories of cases where inherent powers can and should be exercised to quash the proceedings :-

- (a) Where it manifestly appears that there is a legal bar against the institution of continuance of the proceedings;
- (b) Where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;
- (c) Where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced

clearly or manifestly fails to prove the charge.

6. The legal position was again explained by the Hon'ble Supreme Court in the matter of Madhu Limaye Vs. The State of Maharashtra. (1977) 4 SCC 551. Thereafter, the Supreme Court, in the matter of State of Haryana Vs. Bhajan Lal & ors. (1992 Supp. (1) SCC 335, in the backdrop of interpretation of various relevant provisions of the Criminal Procedure Code, highlighted certain guidelines, which the Supreme Court felt were inflexible and even if those guidelines are indicated those are not rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised. Relevant categories are as under :-

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

7. We find, category No.7 referred to above aptly fits to

the present case.

8. There should not be any controversy to the earlier events as highlighted by the applicant in regard to F.I.R. against several persons of the village.

9. It is curious, some of the witnesses named by the complainant/ respondent No.3 are the named persons - Accused in F.I.R. No.I-113/2013, who created a situation of turbulence, commotion and manhandling, used criminal force to deter applicant from discharging duties while at the office. There was threat perception to the life of the applicant. Fortunately, he was saved by intervention of his colleague and timely approach by the police. Having noticed gravity of the matter, it is apparent, the complainant has been used as a stooge and lever to sabotage, the report lodged by the applicant vide his F.I.R. No.I-113/2013. The interested persons in the village have, with a classic mindset, carefully carried strategy to rope in the applicant in Crime No.II-3027/2013 and succeeded in it. There was no reason for applicant to know caste of respondent No.3, nor the papers suggest both were acquainted. In the situation, the criminal proceedings initiated against the applicant being manifestly attended with malafides and is a malicious institution, with an ulterior motive for wreaking vengeance against the applicant to desist exercise of powers to discharge his lawful

duty as an employee of the MSEDCL, calls for interference. The senior Police official should have taken note of events taken place at the same time concerning applicant, and could avoid to throttle applicant's legitimate act than speeding action against him for stringent SC ST Act. The prosecution qua the applicant is, therefore, quashed and set aside. Rule is made absolute.

(A.I.S. CHEEMA, J.)

(K.U. CHANDIWAL, J.)

Bombay High Court