

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.49 OF 2007

Shri Vishwambhar Deorao Lakde & Anr.

... Petitioners.

V/s.

The State of Maharashtra & Anr.

... Respondents.

.....

Mr. A.K. Suryawanshi for the Petitioner.

Ms. S.V. Gajare, APP for the State.

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CORAM : J.H. BHATIA, J.

DATE : 31ST JANUARY, 2007.

P.C. :

1. Heard Mr. A.K. Suryawanshi, learned Counsel for the Petitioners. The Petitioners before this Court are Police Sub-Inspector and Police Head Constable. Petitioner No.1 was posted at South Solapur Police Station while Petitioner No.2 was posted at Mandrup Police Station. One Kallappa had filed the complaint against Respondent No.2 apprehending arrest, the Respondent No.2 had filed Criminal Misc. Application 194 of 2006 in Sessions Court on 21.3.2000 seeking anticipatory bail. The Sessions Court was pleased to grant anticipatory bail on 24.3.2000 as ad-interim relief till 28.3.2000, which was extended from time to time and finally it was allowed on 17.4.2000. When the said order of anticipatory bail

was in force, in the same matter, Crime No.14/2000 was registered on 29.3.2000 and Petitioner No.1 deputed Petitioner No.2 alongwith the other police staff to arrest said accused Rajshekhar, who was working as a teacher in Zilla Parishad School. Said Rajshekhar was arrested and put in lockup. On the next day, he was produced before the Magistrate who released him in view of the anticipatory bail is already granted in his favour. Said Rajshekhar, who is Respondent No.2 made an application before the Sessions Court for taking action against the present Petitioners for contempt of Court by disobeying the order of anticipatory bail. The Petitioners also filed an application before the said Sessions Court to dismiss the application filed under Contempt of Courts Act, 1971. The Application filed for dismissal of the contempt proceeding was rejected by order dated 9.11.2006 and that was challenged in the present Writ Petition.

2. It appears that the learned Sessions Court has not completed the enquiry on the complaint lodged by said Rajshekhar and it came to the conclusion that the application for the dismissal of the said proceeding was filed only to see that the proceeding was prolonged. It is material to note that enquiry on the application of Rajshekhar for taking action against the Petitioners is not yet completed nor the Sessions Court has taken any decision to refer the matter to the High Court for taking action under the Contempt of Courts Act.

3. Taking into consideration the circumstances, I find no fault with the order passed by the Sessions Court rejecting the application of the present applicant. If the Sessions Court decides to make a reference for taking action against the Petitioner for contempt of Court, the Petitioners will get opportunity to defend them.

4. For the aforesaid reasons, the Petition shall dismissed summarily.

(J.H. BHATIA, J.)