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IN THE HIGH COURT OF JUDICATURE OF BOMBAY,

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 43 OF 2008

1. Hanmant s/o Shivajirao Bhosale,
R/o Shahunagar, Kaij, Dist. Beed.
2. Rajesaheb s/o Hanmantrao Chavan,
R/o Netaji Colony, Ambejogai,
District Beed.
3. Dr. Damodhar s/o Haribhau Thorat,
R/o Deshpande Galli, Ambejogai,
District Beed.
4. Nilkanth s/o Gundappa Jirge,
R/o Adarsha Colony, Ambajogai,
District Beed.
5. Prof. Omprakash s/o Narsingrao
Madansure, R/o 2, Venkatesh
Apartment, Signal Camp, Latur,
Dist. Latur.

PETITIONERS

VERSUS

1. The State of Maharashtra
2. Smt. Sunita Baburao Mahajan,
Principal, Jijamata Adhyapak
Vidyalaya, Ladzari, Taluka
Ambejogai, Dist. Beed.

RESPONDENTS

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Mr. A.M. Gaikwad, advocate for the petitioners.
Mr. K.S. Patil, APP for the respondent No. 1.
Mr. S.P. Chapalgaonkar, advocate holding for
Mr. S.M. Kulkarni, advocate for respondent No. 2.

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[CORAM : V.R. KINGAONKAR, J.]

[DATE : 30th September, 2009]

PER COURT :

1. This petition is not pressed into service to the extent of the petitioner No. 1. Mr. A.M. Gaikwad, learned counsel for the petitioners would submit that he would withdraw the petition to the extent of petitioner No. 1 since apparently, some of his utterances shown in the complaint may prima facie amount to offence of defamation or the offence of causing hurt to the religious feelings. The purport of section 295A of I.P. Code is to provide for punishment in respect of deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. The question of intention is subject of proof regarding mental state and, therefore, withdrawal of the petition to the extent of petitioner No. 1 is permitted. Accordingly, the petition is dismissed as withdrawn to the extent of the petitioner No. 1.

2. So far as the other petitioners are concerned, after hearing learned counsel and learned APP, it is

(3)

amply clear that they participated in a programme of training/seminar which was conducted on 16th and 17th July, 2007. The programme was meant for teachers, trainees, etc. in accordance with the scheme set out by the Government. It was an educational programme conducted through Non-Government Organisation (N.G.O.). The sum and substance of the utterances of the petitioners No. 2 to 5 have been enumerated in a report submitted by the Principal of District Educational and Training Institute, Ambajogai.

3. I have gone through the extracts of the speeches of the petitioners No. 2 to 5. The subjects dealt with by them would show that they were required to deal with various topics pertaining to removal of blind faith. The petitioner No. 2 canvassed that the women folks shall not bear with injustice. He stated that women may not use bangles. He further canvassed that the women folks should not follow the rituals like '*vat-poornima pooja*'. The speech was aimed at removal of faith in some of religious functions and rituals and to demonstrate that the empty formalities may not be in the

(4)

interest of class of women. There appears no prima facie material to infer any deliberate or malicious act to cause insult to any particular religion. Similarly, the extract of speeches of other petitioners No. 3 to 5 do not show that they intended to insult religious feelings of the followers of a particular religion. It appears that the intention of the petitioners No. 2 to 5 was to remove blind faith in the context of some of the saints. For example, the petitioner No. 4 canvassed that there is no God in the world and all the saints are pretentious. Everybody has a right to express his view points. Mere blasphemy is no offence. The acts of the petitioners No. 2 to 5 do not fall within the ambit of section 295A of the I.P. Code even if extracts of their speeches are considered as they stand. It does not require any thorough examination of the evidence to reach conclusion that the acts of the petitioners No. 2 to 5 do not constitute any offence as such. They were speakers invited at the time of the seminar conducted in the Institute of teachers and trainees. One may despise the the views expressed by them but certainly, their speeches do not indicate any element of dishonest or

(5)

deliberate act which was intended to insult religious feelings of any class as such.

4. Considering the tenor of the averments made in the complaint and the nature of speeches made by the petitioners No. 2 to 5, I am of the firm opinion that the continuation of the FIR against them would amount to abuse of the process of the Court. Hence, the petition is allowed to the extent of the petitioners No. 2 to 5 and the FIR as against them stands quashed. It is made clear, however, that the FIR is not quashed to the extent of the petitioner No. 1 (Hanmant s/o Shivajirao Bhosale) and same may be continued for the purpose of investigation. The impugned stay is vacated to his extent.

[V.R. KINGAONKAR]
JUDGE

NPJ/criwp43-08