

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.634 OF 2020
(Arising out of SLP (Criminal) No.2999 of 2020)

SHIVAJI BABAN BAGATE

Appellant

VERSUS

STATE OF MAHARASHTRA & ANR.

Respondents

O R D E R

Leave granted.

This appeal challenges the judgment and order dated 09.01.2020 passed by the High Court of Judicature at Bombay in Criminal Writ Petition No.5342 of 2019.

Because of certain disputes pending between two factions, the appellant police officer issued a notice under Section 149 of the Code of Criminal Procedure, 1973. A private complaint was thereafter filed by respondent no.2 against the appellant and others alleging commission of offences punishable under Sections 147, 148, 323, 504, 506 read with Section 34 IPC. The complaint was filed in the Court of Judicial Magistrate First Class, Junnar, Pune.

The process was issued by the concerned Magistrate and the matter has been pending on the file of the Magistrate since 2001.

On an application moved by the appellant seeking quashing of the proceedings against him, no infirmity was found by the High Court and consequently the challenge was disallowed.

On 21.08.2020, this Court issued notice to the State as well as to the original complainant and according to the office report, the service of notice was refused by the complainant. Consequently, the complainant is deemed to have been served in the matter.

With the assistance of the learned counsel appearing for the parties, we have gone through the original complaint and we do not find any case made out insofar as the appellant is concerned. In our view, while issuing notice under Section 149 Cr.P.C., the appellant had acted purely in his capacity as a public servant and nothing wrong can be attributed to the issuance of notice on his part. The complaint insofar as it makes certain allegations against the rest of the accused will certainly be gone into by the concerned Court but the appellant is definitely entitled to the benefit of quashing of the proceedings against him.

We, therefore, allow this appeal and quash the criminal proceedings, namely, SCC No.159/2001 on the file of the Judicial Magistrate First Class, Junnar, Pune insofar as the appellant (accused no.12) is concerned.

The appeal is allowed in aforesaid terms.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

.....J.
[S. RAVINDRA BHAT]

NEW DELHI;
SEPTEMBER 28, 2020

