

Ganesh Vs. State of Maharashtra

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Court : Mumbai Nagpur

Decided On : Apr-02-2016

Judge : Z.A. Haq

Appeal No. : Criminal Writ Petition No. 908 of 2015

Appellant : Ganesh

Respondent : State of Maharashtra

Judgement :

Oral Judgment:

1. Heard Shri S.D. Chopde, Advocate for the petitioner and Shri S.B. Bissa, A.P.P. for the respondent.

2. Rule. Rule made returnable forthwith.

3. The petitioner -accused has challenged the order passed by the learned Magistrate rejecting the application filed by the petitioner - accused seeking permission to file on record certified copy of the judgment passed in Special Civil Suit No.10/2010.

The prosecution is initiated against the petitioner on the complaint of Shrikrishna Ramlal Tarapure that the petitioner has committed theft of 300 trucks murum from agricultural land of the complainant. Shrikrishna Ramlal Tarapure had filed Special

Civil Suit No.10/2010 contending that the petitioner had committed theft of about 300 truck loads of murum amounting to Rs.2,10,000/-from the agricultural land owned by him and prayed for decree for Rs.9,000,00/-. The civil suit is dismissed by the trial Court by the judgment dated 11th October, 2013.

The petitioner filed application in the criminal case seeking permission to file on the record, the certified copy of the judgment passed by the civil Court. This application is rejected by the learned Magistrate by the impugned order.

The learned Magistrate has recorded that the petitioner -accused is seeking permission to file judgment of the civil case which is totally different and has no relevance. The learned advocate for the petitioner has pointed out the copy of the judgment passed in Special Civil Suit No.10/2010, which is placed on the record and it shows that the contentions of the plaintiff in that civil suit were same as in the criminal complaint.

Though the learned A.P.P. has supported the impugned order, he has not been able to substantiate that the copy of judgment passed in Special Civil Suit No.10/2010 is not relevant for the purposes of deciding the point in that criminal case. Considering the facts on the record, I am of the view that the impugned order is unsustainable.

4. Hence, the following order:

(i) The impugned order is set aside.

(ii) The application filed by the petitioner accused seeking permission to file on the record the certified copy of judgment passed in Special Civil Suit No.10/2010 is allowed.

(iii) The certified copy of judgment passed in Special Civil Suit No.10/2010 be taken on the record of Regular Criminal Case No.62/2010.

(iv) Rule is made absolute in the above terms.

(v) In the circumstances, the parties to bear their own costs.