

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

CRIMINAL WRIT PETITION NO. 285 OF 2014

Tushar S/o Mahadevrao Arsul .. Petitioner

Versus

The State of Maharashtra and Antoher.. Respondents

Shri N. L. Jahdav, Advocate for the Petitioner.

Shri D. R. Kale, A. P. P. for the Respondent No. 1.

Shri Anandsing Bayas, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 10TH DECEMBER, 2015.

PER COURT :-

1. The present petition is filed initially for quashing the F. I. R. bearing No. 17 of 2014 registered with Jafrabad Police Station for the offence punishable under Sections 341, 323 and 504 of I. P. C. It appears that during the pendency of the present petition chargesheet came to be filed. Vide order dated 21st July, 2014, this Court allowed the petitioner to amend the petition and challenge the chargesheet also.

2. Mr. Jadhav, the learned counsel for the petitioner submits that, the complaint if read as it is no offence under Section 341 of I. P. C. is made out. Even, after perusal of chargesheet offence under Section 341 is not made out.

According to the learned counsel, the complaint itself is false and frivolous. On the same day complaint was filed by the wife of the present petitioner against the respondent and other persons. As a counter blast to the said complaint present complaint is filed.

3. Mr. Bayas, the learned counsel for the respondent No. 2 and the learned A. P. P. submit that, the complaint contains the averments disclosing the offence under Section 341 of I. P. C. amongst other offences. The applicant had caused obstruction and wrongfully restrained the truck and person i.e. Shaikh Habib. The witnesses have also testified the said fact. Even, in the assault on the part of the applicant, Shaikh Habib was injured and he was required to be taken to the hospital. The offence is made out.

4. We have heard the submissions.

5. This Court would exercises its jurisdiction for quashing of a complaint sparingly and in exceptional circumstances only. If the complaint read as it is without adding or subtracting any of the averments does not disclose commission of the offence alleged then, only the Court may entertain the application. As far as, offence under Section 341 of I. P. C. is concerned the said offence is made out only if a person is wrongfully restrained from proceeding in any direction in which that person has right to proceed. In the present case the allegations are that, Shaikh Habib was

travelling by a car and he himself alighted from the car and there after there was some assault. It is not the case that the applicant restrained the said person from going in a particular direction.

6. Considering the above, the offence under Section 341 of I. P. C. is not made out. We are restricting this petition to the extent of considering the case for offence punishable under Section 341 of I. P. C. and for no other purpose.

7. For all other purposes the respective parties are at liberty to file proper applications before the trial Court.

8. In light of the above, the complaint inter alia the chargesheet bearing No. 31 of 2014 filed in S. T. C. No. 120 of 2014, before J. M. F. C., Jafrabad to the extent of offence under Section 341 is quashed.

9. Criminal writ petition is accordingly disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

sam/Dec. 15