

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2988 OF 2014

Mr. Milind Natha Ghadge	...	Petitioner
vs.		
The State of Maharashtra & Ors.	...	Respondents

Mr. Ramchandra N. Kachave, Advocate, for the petitioner.
Mr. Suresh A. Ghamare, for respondent Nos. 4 to 24.
Ms. G.P.Mulekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 24th August, 2015.

P.C.

Heard. Rule. Rule made returnable forthwith with consent of the parties.

2. The petitioner herein, who happens to be the original complainant in CC No.30/SW/2011 has filed the present petition challenging the order passed by the learned Magistrate thereby dismissing the complaint by an order dated 28.5.2013. Being aggrieved by the order of dismissal, the petitioner had filed Criminal Revision No.273 of 2013. The learned Sessions Court by an order dated 25.6.2014, has been pleased to

dismiss Criminal Revision Application No.273of 2013.

3. Such of the facts necessary for the decision of this Writ Petition are as follows :-

That the petitioner herein had filed a complaint before the learned Magistrate alleging therein that the accused persons are residing in the same chawl i.e. Worli B.D.D. Chawl, Dr. G.M. Bhosle Marg, Worli, Mumbai. That according to the complainant, the accused persons had made their life miserable by committing breach of peace and by indulging into other criminal activities. It is alleged in the complaint that the accused persons were extorting money from the complainant. That according to the complainant, on 24.2.2006 when the complainant and his family members were celebrating birthday of the son of the complainant, the unknown persons had demanded money as a rent for the room, although they had no authority to collect the said rent. The complainant had refused to fulfill the demand and therefore there was an altercation between them. According to the complainant, threats were given to him and his family members. It is also alleged in the complaint that on 1.2.2007, the accused persons had shouted slogans in front of the house of complainant and at that time, the

complainant had informed the accused that since the minor son was sleeping, they should not create ruckus in front of his house. There was altercation on that count and the complainant had approached the police station and lodged report on the basis of which N.C. No.312 of 2007 was registered against the accused persons. It is also alleged that the complainant had also lodged report on 7.2.2007 to the police station on the basis of which again N.C. was registered. He sent a reminder to the police on 13.4.2007 and had also given a report to the Assistant Commissioner of Police. The complainant has further alleged that the accused had committed illegal activities through Navhans Mitra Mandal and nobody would lodge report against the accused persons since they had influence. The accused persons happened to be the members of Navhans Mitra Mandal. According to the complainant, the accused persons were indulging into criminal activities only to exert pressure upon the complainant to leave the chawl. The complainant approached Worli Police Station and lodged FIR against the accused persons as well as Navhans Mitra Mandal. It is pertinent to note that the complainant has not given the number of the crime registered against the accused persons. It is admitted in the complaint that on 9.4.2007, Ujjwala Kirtane had approached the police station to lodge a report against the complainant, but the police authorities had not registered

the complaint. Being aggrieved by the same, Ujjwala Kirtane and orthers had also threatened the complainant. The complainant has stated that he had approached the police station on various occasions and on the basis of his report, non-cognizable cases were registered. It is also alleged that on 30.4.2007, the complainant and his mother had approached the police station and lodged a report against the authorities before the Maharashtra State Human Rights Commission and the said complaint was disposed of on 8.2.2008. The Human Rights Commission had specifically observed that a perusal of the reports filed by the concerned police would show that the incidents are of minor nature and local police have recorded non-cognizable cases and therefore Maharashtra State Commission need not interfere. The complainant has further alleged that he had thereafter left the B.D.D. chawl and was residing elsewhere, but he had visited his room on 22.6.2007 and at that time also he was abused by the accused Rajesh Jadhav. The complainant has given stray incidents ranging from the year 2006. On 21.6.2009, the complainant had made a written complaint to the Senior Inspector of Police, Worli, through an Advocate, however, no cognizance was taken. A complaint was also lodged by him in the year 2010. On the basis of it, N.C. No.2887/2010 is registered. According to him, since the police had not taken cognizance on this complaint, he had

approached the Court of learned Judicial Magistrate.

4. It is pertinent to note that the complainant had not given any list of witnesses along with the complaint. Section 200 of Cr.P.C. contemplates as follows :-

“200. Examination of complainant – A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate.”

The complainant had admittedly not given the list of witnesses. The learned Magistrate had called for report under Section 202 of Cr.P.C. The concerned police station had submitted their report on 2.10.2012. The police had specifically submitted that there were no witnesses to the alleged incidents as alleged by the complainant before the learned Magistrate. The police had recorded the statement of the people residing in the said chawl and nobody had supported the complainant. On the basis of the said report, the learned Magistrate had dismissed the complaint. The Revisional Court has specifically observed that the order passed by the learned Magistrate was justified and there was no reason to interfere with the said order. The learned Revisional Court has rightly considered that the mandatory provisions of the Code had not been followed. The complaint had disclosed

various incidents ranging from 2006 to 2010 and therefore there was no specific offence of which cognizance could be taken. The learned Maharashtra State Human Rights Commission had also observed that there were stray incidents and that N.Cs have been registered in respect of each of the incident complained by the complainant and therefore no irregularity or illegality can be found in the order of the Magistrate rejecting the said complaint.

5. In view of this, no interference is called for in the order passed by the Revisional Court. The Petition being sans merits, deserves to be dismissed. Rule is accordingly discharged.

(SMT.SADHANA S.JADHAV, J.)