

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

CRIMINAL WRIT PETITION NO.67 OF 2016

Gorakh s/o. Ratan Rathod,
Age 47 years, Occ. Agri.,
r/o. Ghodegaon, Tq. chalisgaon,
Dist. Jalgaon ..Petitioner

Vs.

The State of Maharashtra,
Through I.O.,
Superintendent of Police,
Jalgaon, Dist. Jalgaon
and ors. ..Respondents

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Mr.P.B.Patil, Advocate for petitioner

Mr.D.R.Kale, APP for respondent nos.1 to 3

Mr.N.N.Desale, Advocate for respondent nos.4 to 7

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : SEPTEMBER 23, 2016**

PER COURT :

At the outset, the learned Counsel for the petitioner makes an oral prayer to delete respondent nos.4 to 7 from the array of the respondents.

2. Prayer granted. Amendment be carried out forthwith.

3. Heard the learned Counsel for the petitioner and the learned APP for respondent nos. 1 to 3.

4. By this petition, the petitioner has sought directions to respondent nos.1 to 3 to register offence on the basis of the First Information Report ("F.I.R.", for short) lodged by the petitioner on 29.11.2015.

5. The learned A.P.P. submits that the wife of the petitioner has also lodged F.I.R. about the same incident, bearing registration number 49 of 2015 on 23.10.2015 with the Rural Police Station, Chalisgaon for the offences punishable under Section 324, 323, 504, 506 and 427 of the Indian Penal Code.

6. The learned Counsel for the petitioner submits that the F.I.R. lodged by the wife of the petitioner is about the incident, which has taken place on 21.10.2015 at 1.00 a.m. against Shri. Anil Harishchandra Jadhav and Samadhan Laxman Rathod.

7. The learned Counsel for the petitioner further submits that the petitioner has lodged F.I.R. on 29.11.2015 in respect of the incident, which has taken place on 21.10.2015 at 1.30 p.m. against four persons. He submits that though the F.I.R. has been lodged at the Police Station on the basis of the report filed by the wife of the petitioner in respect of the incident which has taken place on 21.10.2015 at 1.00 a.m., on that count, registration of the F.I.R. on the basis of the report lodged by the petitioner about the incident which has taken place on 21.10.2015 at 1.30 p.m., should not have been refused. He further submits that the petitioner has also sent

a copy of the said report to respondent no.2 – Deputy Superintendent of Police, Chalisgaon.

8. After hearing the learned Counsel for the parties and perusal of the pleadings in the petition and annexures thereto, in our view, directions need to be given to respondent no.1 to make enquiry into the allegations made in the F.I.R. lodged by the petitioner and after recording satisfaction that the incident alleged in the F.I.R. lodged by the petitioner, is different than the incident which has taken place on 21.10.2015 at 1.00 a.m. about which, the F.I.R. is already lodged by the wife of the petitioner, to take action as contemplated under the provisions of Section 156(3) of the Code of Criminal Procedure. It will depend upon the enquiry to be made by respondent no.1, whether the incidents, which are stated in the two F.I.Rs. lodged by the petitioner and his wife, are one and the same or different.

9. At this stage, the learned A.P.P. informs this Court that respondent no.2 has already caused such enquiry.

10. We are of the opinion that if further enquiry is conducted by respondent no.1, it will not cause prejudice to the respondents.

11. We, therefore, direct respondent no.1 – Superintendent of Police to cause enquiry in the manner stated above. Such enquiry be completed and necessary decision be taken on its own merits, within four weeks from today and the decision so taken, be communicated to the petitioner on or before 21.10.2016.

12. With the above directions the Writ Petition stands disposed of.

13. The parties to act on authenticated copies of this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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