

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office		
Memoranda of Coram,		Court's or Judge's orders
appearances, Court's		
orders or directions		
and Registrar's orders		

CRIMINAL WRIT PETITION NO. 390 OF 2016

ANKUSH AMBADAS UBALE

VERSUS

THE STATE OF MAHARASHTRA AND OTHER

...

Advocate for petitioner : Mr. P.S. Paranjape

APP for Respondent/State: Mr. A.A. Jagatkar

Advocate for respondent no.3 and 6 : Mr. S.D.

Tawshikar holding for Mr. A.R. Devakate

Advocate for respondent no. 2 : Mr. D.S. Pawar

...

CORAM: S.S.SHINDE & K.K.SONAWANE, JJ.

Dated: December 19, 2016

...

Heard the learned counsel appearing for the petitioner, the learned A.P.P. appearing for the Respondent Nos.1, 4 and 5, the learned counsel appearing for respondent no.2 and the learned counsel appearing for respondent nos.3 and 6.

2. This Petition is filed with the following prayers :-

"b. The F.I.R. bearing Crime No.I 03/2016 registered with Ambad Police Station for the offence under Section 420, 467 & 468 of the Indian Penal Code may kindly be quashed and set aside;

c. Direction to respondent no.4 to register an offence against respondent no.3 for illegally detaining the petitioner and so also for extorting the amount of Rs.2,00,000/- from petitioner."

3. We have heard the learned counsel appearing for the petitioner at length. He invited our attention to the various documents placed on record and in particular, the complaint/letter sent to the Inspector General of Police. He submits that if the copies of the documents placed on record are considered in its entirety, there is no manner of doubt that the entire genesis of dispute is of civil nature, and therefore, there is no question of either to register the F.I.R. at the instance of the Respondent No.2 and cause further investigation and also to issue notice to the petitioner and detain him for couple of hours in the

Police Station. It is further submitted that, the application/complaint is addressed to the Special Inspector General of Police i.e. the respondent no.5, but no cognizance of the said complaint is taken. He also submits that, there was also illegal demand of money by the concerned Investigating Officer. He invites our attention to the pleadings in the Petition, annexures thereto and other documents placed on record and submits that the Petition deserves to be allowed.

4. The learned A.P.P. submits that, so far as the prayer for quashing of the F.I.R. bearing Crime No.I 03/2016 registered with Ambad Police Station for the offence punishable under Sections 420, 467 and 468 of the Indian Penal Code is concerned, the prosecution agency has collected the sufficient material and on the basis of the said material the trial can proceed.

5. The learned counsel appearing for respondent no.2 submits that, the investigation has been taken to the logical end by the Investigating Officer and the charge-sheet is filed and there is no prayer for quashing the charge-

sheet. Therefore, he submits that the Petition may be rejected.

6. The learned counsel appearing for the Respondent Nos. 3 and 6 submits that the allegations made in the Petition are without any basis. He further submits that the said allegations are specifically denied.

7. We have carefully considered the submissions advanced by the learned counsel appearing for the petitioner, learned A.P.P. appearing for the Respondent/State, the learned counsel appearing for respondent nos.3 and 6 and the learned counsel appearing for respondent no.2. With their able assistance, we have perused the pleadings in the Petition and annexures thereto.

8. So far relief claimed in terms of prayer clause `b' is concerned, same cannot be granted since we are satisfied that on the basis of the material collected by the Investigation Officer during the course of investigation, the trial can go on. Therefore, the prayer clause `b' for quashing the F.I.R. stands rejected. However, we make it clear that,

if the petitioner desire, he may avail of the appropriate remedy of filing the application for discharge before the concerned Court.

9. So far as prayer clause `c' is concerned, in our considered view, the adjudication of the said prayer would lead to adjudication of the disputed questions of facts, in as much as, the allegations in the Petition have been denied by the respondents. The Superintendent of Police has also filed the reply.

10. Be that as it may, leaving open the remedies available to the petitioner in law, we are not inclined to entertain this Petition. However, we make it clear that in case, the petitioner decides to approach the Court of competent jurisdiction for his grievance, as reflected in prayer clause `b' and `c', the observations made hereinbefore shall not be construed as an impediment either to avail of the remedy available to the petitioner or adjudication of the grievances raised by the petitioner, in this petition.

11. With the above observations, the Criminal Writ Petition stands rejected.

(K.K.SONAWANE, J)

(S.S. SHINDE, J)

sga/