

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 406 OF 2016

SUNITA W/O DATTA @ DATTATRAYA WAVHALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. S.J. Salunke
APP for Respondent No.1: Mr. S.G. Karlekar
Advocate for Respondent No.2 : Mr. N.T. Tribhuvan

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CORAM : V. K. JADHAV, J.
DATED : 1st AUGUST, 2016

PER COURT:-

1. Being aggrieved by the order dated 30.5.2011, passed by the 8th J.M.F.C. Parbhani, below Exh.1 in R.C.C. No. 537 of 2010 thereby issuing process against the petitioners-original accused for the offences punishable under Sections 324, 504 r.w. 34 of I.P.C. and further the said order passed by the Magistrate is confirmed by the Adhoc Additional Sessions Judge, Parbhani, by order dated 11.2.2016 in Criminal Revision No. 66 of 2011, the petitioners-original accused preferred this writ petition.

2. Brief facts giving rise to the present petition are as follows:-

Respondent No.2 is the original complainant. She has lodged the complaint against the present petitioners-original accused

alleging therein that the petitioners-original accused in furtherance of their common intention, entered in her house and subjected her to beating. In consequence of which, she sustained bleeding injuries. After recording verification statement of the complainant and considering the documents placed on record, learned Magistrate by order dated 30.5.2011 below Exh.1 in R.C.C. No. 537 of 2010 issued process against the petitioners-accused for the offences punishable under Sections 324, 504 r.w. 34 of I.P.C. The learned Adhoc Additional Sessions Judge, Parbhani by order dated 11.2.2016 in Criminal Revision No. 66 of 2011 also confirmed the said order. Hence, this writ petition.

4. Learned counsel for the petitioners submits that respondent No.2-complainant has lodged the complaint with the concerned police station, wherein the date of incident is referred as 17.8.2010 instead of 14.8.2010, as referred in the complaint. Furthermore, so far as the incident narrated to the police by way of filing complaint is concerned, the allegations have been made against petitioner Nos. 1 and 2 only and no role is ascribed to petitioner Nos. 3 and 4. There are no allegations about their presence at the spot of incident at the relevant time. The petitioner No.3 Mayuri is taking education and petitioner No.4 is serving as Agriculture Assistant and they have no concerned with the allegations made in the private complaint lodged

before the Magistrate.

5. Learned counsel for the respondent-original complainant submits that there are allegations in the complaint filed before the Magistrate against all the petitioners. In the complaint before the Magistrate, the date and time of incident is shown as 17.08.2010 at about 8.00 a.m. There are specific allegations in the complaint that the petitioners-accused in furtherance of their common intention beaten the complainant with the help of wooden log and sticks. On the basis of these allegations, after recording verification statement and on going through the documents submitted alongwith the complaint, learned Magistrate has rightly issued process under Sections 324, 504 r.w.34 of I.P.C. Whatever the defence available to the petitioners-original accused the same may be considered during the course of trial. Learned Magistrate has issued process after making observations that there is prima facie case against the petitioners-accused for issuance of process. Learned Adhoc Additional Sessions Judge, Parbhani has also confirmed the said order. There is no substance in the writ petition and the petition deserves to be dismissed.

6. After going through the impugned order passed by the Magistrate, it appears that learned Magistrate, after recording

statement of complainant on oath and on perusal of the documents submitted alongwith the complaint, has issued process under Sections 324, 504 r.w. 34 of I.P.C. against the petitioners-original accused.

7. On careful perusal of complaint, it appears that there are allegations made against all accused by ascribing certain role to each of them. Learned Additional Sessions Judge in para 6 of the judgment has also observed that the complainant has produced on record a medical certificate alongwith the complaint and on going through the same, it appears that the complainant has sustained the injuries simple in nature in the alleged incident. Thus, there is *prima facie* case against the petitioners-original accused. No case is made out for interference in the impugned order passed by the Magistrate. There is no substance in the writ petition. Writ petition is accordingly dismissed.

(V. K. JADHAV, J.)

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