

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

CRIMINAL WRIT PETITION NO.731 OF 2014

Baban s/o Shivram Bothe,
Age 52 years, Occu. Retired
r/o Pargaon (Moula), Post
Shiradhon, Taluka and
District Ahmednagar,
At present r/o 122, 1/A,
Sukhakarta Colony,
Near Railway Station,
Ahmednagar

..Petitioner

Versus

1. The State of Maharashtra,
through Superintendent of
Police, Ahmednagar
2. Bhingar Camp Police Station,
Bhingar, Ahmednagar,
through Police Inspector
3. Nagar Taluka Police Station,
Ahmednagar,
Thourgh Police Inspector
4. Military Hospital,
Bhingar, Ahmednagar,
Through its Commanding Officer
5. Shri S.B. Mandge,
Age 52 years, Occu. Service
as A.P.O., Kotawali Police Station,
Ahmednagar
6. Shaikh Mohamad Mehbub,
Age 54 years, Occu. Service,
Head Constable (1215),
Nagar Taluka Police Station,
Ahmednagar
7. Shri A.P. Khaire,
Age 53 years, Occu. Service,
R/o Police Head Constable,
Nagar Taluka Police Station,
Ahmednagar
8. Gopinath s/o Sitaram Bothe,
Age 54 years, Occu. Agri.,

9. Babasaheb s/o Gopinath Bothe,
Age 32 years, Occu. Agri.,
10. Ravindra s/o Gopinath Bothe,
Age 30 years, Occu. Agri.,
11. Sitaram s/o Shripati Bothe,
Age 85 years, Occu. Agri.,
Respondents No.8 to 11
R/o Pargaon (Moula),
Taluka and Dist. Ahmednagar ..Respondents

Mr N.C. Garud, Advocate for petitioner
Mr N.T. Bhagat, A.P.P. for respondents No.1 to 3

CORAM : V.K. JADHAV, J.

DATE : 29th July 2016

PER COURT

Heard both sides.

2. Being aggrieved by the order passed by the Judicial Magistrate, First Class, Court No.4, Ahmednagar dated 27th March 2014, below Exh.43 in R.T.C. No.377 of 2009, the original complainant has preferred this Writ Petition.

3. Brief facts, giving rise to the present writ petition are as follows:

4. After the alleged incident, the petitioner came to be admitted in Military Hospital at Bhingar for treatment and at that time, the hospital sent one memo to Bhingar Camp Police Station, as the case being the Police case. The respondent No.5 had attended the petitioner. On the basis of the complaint lodged by the petitioner, Crime No.I-88/2009 came to be registered for the offences punishable under Sections 325, 323, 504, 506, 427 read with Section 34 of Indian Penal Code and after due investigation, the concerned Police Inspector has submitted the charge-sheet against the petitioner. However, it has

alleged that respondents No.5 and 6 who were the Police personnel did not file the original M.L.C. and the injury certificate.

5. The petitioner, time and again filed applications before the learned Judge of the trial Court praying therein that the authorities may be directed to produce the original injury certificate, however, the authorities of the Military Hospital produced xerox true copy of the M.L.C. The petitioner, has therefore, filed application Exh.43 for initiating proceedings against the Investigating Officer and other two Police Constables for the reason that even though the original injury certificate came to be handed over to them by the hospital, deliberately they have not produced the same before the Court. Since the said application came to be rejected by the impugned order passed below Exh.43 by the Magistrate, the petitioner has filed the present petition.

6. Learned Counsel for the petitioner submits that even though the original injury certificate was handed over to respondents No.5 and 6, with some ill-intention they have not produced it before the Court. The petitioner has, therefore, rightly filed the application Exh.43 before the Court for initiating proceedings against the Investigating Officer and the said two Constables (respondents No.5 and 6 herein).

7. The learned A.P.P. submits that the application, as prayed, could not be entertained. The learned Judge of the trial Court can summon the Medical Officer of the said Military Hospital to attend the Court itself along with the original injury certificate and in that way, the purpose of the petitioner in filing the present petition would be served.

8. So far as the injury certificate is concerned, on examination of the injured, who was brought to the hospital, the injuries were required to be noted in a medico-legal register and on the basis of the entries taken in the said register, the medico-legal certificate is accordingly issued. Thus, if the Medical Officer of the concerned hospital is directed to attend the Court along with original medico-legal register, the purpose of the petitioner in filing the application Exh.43 and the present writ petition would be served. I do not find that for any ulterior motive, respondents No.5 and 6 avoided to produce the original injury certificate, though handed over to them by the hospital. Hence, the following order:

ORDER

(I) The learned Judicial Magistrate, First Class, Court No.4, Ahmednagar is hereby directed to summon the Medical Officer of respondent No.4 - Military Hospital, Bhingar, Ahmednagar as and when occasion arises, with the directions to attend the Court along with the original record including the medico-legal register.

(II) With above directions, Criminal Writ Petition is disposed of.

(V.K. JADHAV, J.)

vvr