

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

CRIMINAL WRIT PETITION NO. 1021 OF 2016

**SAMBHAJI @ YUVRAJ S/O BHIMRAO JADHAV
AND ORS.**

VERSUS

**THE STATE OF MAHARASHTRA
AND ANR.**

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Mr. R.O.Awasarmol, Advocate for Petitioners.

Mr. S.P.Sonpawle, A.G.P. for R – 1.

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CORAM : T.V.NALAWADE, J.

DATE : 11th AUGUST, 2016

ORAL ORDER :-

. The Writ Petition is filed to challenge the Order made on Exh. 1 in Criminal Application No. 767/2015 by the learned J.M.F.C., Chalisgaon. Heard learned counsel for the petitioners and the learned A.P.P.

2. It appears that F.I.R. was given by present respondent No. 2 against the present petitioners and it was registered as Crime No. 230/2014 by Chalisgaon police station for the offences punishable u/ss 323,504,506 of the Indian Penal Code. After making investigation of this crime,

police filed 'B' summary report before the J.M.F.C., Chalisgaon. It appears that as there was 'B' summary report, notice was issued to the original complainant by the J.M.F.C. and original complainant filed objection petition. Hearing was given to the complainant and then the complainant examined witnesses in support of the allegations. After considering the material produced before the J.M.F.C., J.M.F.C. came to the conclusion that the aforesaid offences are made out and on that basis rejected 'B' summary report filed by police and process has been issued against the petitioners.

3. Present proceeding is filed to challenge the order made by the J.M.F.C. of rejection of 'B' summary report. It needs to be kept in mind that though there is power with police to say that no offence is made out, but it is up to the Magistrate to accept or reject the 'B' summary report. The Magistrate is expected to give hearing to the other side. The Magistrate is now satisfied that the case is made out and that order is made on the basis of the material produced before the Magistrate.

4. The record produced in the present proceeding shows that in respect of the incident dated 10/07/2014, which took place at 12.45 p.m., first F.I.R. was given by the side of the petitioners and Crime No. 227/2014 was registered for the offences punishable u/ss 143,147,148,149,324,323,504,506 read with 34 of the Indian Penal Code. On the basis of that F.I.R., investigation was made and charge sheet is filed against present respondent

No. 2. It is the case of respondent No. 2 that on the same day and at the same time, she was assaulted and she had given F.I.R. on the basis of which Crime No. 230/2014 was registered. Thus, it is the case of respondent No. 2 that against her also, offence was committed and now the Magistrate has taken cognizance of the counter case.

5. In view of the powers of the Magistrate, this Court holds that it is not possible to use the extra ordinary jurisdiction by this Court.

6. In the result, Writ Petition stands dismissed.

[T.V.NALAWADE, J.]