

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

CRIMINAL WRIT PETITION NO. 1329 OF 2015

KANIF S/O MAROTI MANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. Dnyaneshwar A. Bide.
APP for Respondents: Mr. M. M. Nerlikar.

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CORAM : **A. V. NIRGUDE &
INDIRA K. JAIN, JJ.**

DATE : 28th March, 2016.

P.C.:

. By consent, this criminal writ petition is taken up for final hearing.

2 The Petitioner is Complainant, but his complaint was not registered as an offence. For appropriate directions to the police, he has filed this petition. Petitioner's complaint is annexed to the petition at page No.30, which is addressed to the Superintendent of Police, Ahmednagar. The Petitioner disclosed in this complaint that on 29th November, 2014 at about 04:30 pm, a private car came to his chalk factory, his son Sagar was present there. One of the occupants of the car asked Sagar as to whether the place where chalk factory was

conducted, is permitted to be used for non-agricultural purpose. They also threatened him that the proprietor of the factory would be fined to the extent of Rs.3,00,000/-. Hearing this threat, Complainant's son Sagar felt scared and thereafter, the occupant of the car told him that if he was paid Rs.10,000/-, he would settle the matter. Sagar then made a phone call to the Complainant. Accused No.1 Talathi Shri Ghateshahi then had a talk with the Complainant, who re-iterated the threat. Accused No.1 Shri Ghateshahi then asked him to come and meet them. The Petitioner / Complainant assured him that he would reach there within half an hour. Accused No.1 asked the Complainant that he should reach toll Naka at Takli Kazi where they would meet him. The Petitioner / Complainant then went to toll Naka and noticed red coloured car parked by the side of the road. He approached the car. One of the occupants then asked the Petitioner to pay Rs.10,000/- and also indicated that other occupants of the car were Tahsildar and Commissioner of Nashik Division. The Petitioner / Complainant thereafter, handed over Rs.5,000/- to one of the Accused etc.

3 In view of this complaint, which appeared to us earlier also of serious nature, we directed the Investigating Officer to submit a report. Accordingly, the Investigating Officer submitted a report and

indicated in it that the Complainant is habitual Complainant against Government Servants and he would not believe his complaint at all. He also stated that he made correspondence with the Tahsildar for verification etc. On perusal of the affidavit in reply as well as the complaint the contentions of which are narrated above and the investigation papers we are convinced that there is *prima-facie* case for registration of offence under Section 420 of the Indian Penal Code against four occupants of the car. The Complainant has stated the names of the four occupants of the car. All the four occupants of the car made their statements to the police during inquiry that they indeed met the Petitioner / Complainant on 29th November, 2014 at about 04:30 pm etc. They, however, denied having made any false representation or having received Rs.5,000/- from him. Their denial, at this stage, is not material. What is relevant here is, the Complainant's and his son's statements. We hold that the information, which they gave to the police amounted to offence under Section 420 of the Indian Penal Code and the offence ought to have been registered. Despite the fact that the complaint was lodged with the Superintendent of Police, we do not see any meaningful intervention. We, therefore, direct him to register an offence and handover investigation of this case to a trusted police officer of his choice.

4 Criminal writ petition stands disposed of.

[INDIRA K. JAIN, J.]

[A. V. NIRGUDE, J.]

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