

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 25 OF 2016

GAJENDRA R. SINGH.

... Petitioner

Versus

POLICE INSPECTOR, CALANGUTE POLICE
STATION, AND 4 ORS.,

... Respondents

Mr. Kapil D. Kerkar, Advocate for the petitioner.

Mr. S. R. Rivonkar, Public Prosecutor for the respondents No.1 and
2.

Mr. S. Shet, Advocate for the respondents No.3, 4 and 5.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 11th April, 2016

P.C.:

Heard Mr. K. Kerkar, learned Counsel appearing for the petitioner, Mr. S. R. Rivonkar, learned Public Prosecutor for the respondent/State and Mr. S. Shet, learned Counsel appearing for the respondents No.3, 4 and 5.

2. This petition is filed to quash and set aside the F.I.R. and the Charge-sheet filed against the petitioner.

3. Mr. K. Kerkar, learned Counsel appearing for the petitioner submits that the FIR does not disclose any involvement of the petitioner in the alleged crime. The learned Counsel further points out that only by a supplementary statement, the original complainant

has alleged that the petitioner has instigated the other accused to commit the offence. The learned Counsel further submits that the whole basis to implicate the petitioner is that the petitioner is the owner of the dance club which, according to the learned Counsel, does not belong to the petitioner. The learned Counsel further points out that on the basis of such a bare statement, the question of registering the FIR or filing the Charge-sheet is totally baseless. The learned Counsel further submits that the respondent Nos. 3, 4 and 5, whose statements were recorded by the Investigating Officer, have filed affidavits disowning the statements and, inter alia, stating that the petitioner was not at all present at the scene of offence. The learned Counsel, as such, points out that the FIR, as well as the Charge-sheet, be quashed and set aside.

4. On the other hand, Mr. S.R. Rivonkar, learned Public Prosecutor submits that the supplementary statement dated 03/01/2012 of Ravi Pirankar-respondent No.3 herein clearly implicates the petitioner in the commission of the offence. The learned Public Prosecutor has, thereafter, taken us through the Recovery Panchanama of the weapons to point out that the weapons were recovered from a place near the cash box of the dance bar. The learned Public Prosecutor further submits that the affidavits filed by the complainant and other witnesses cannot be examined by this Court to consider whether the FIR and the Charge-sheet deserve to be quashed and set aside. The learned Public Prosecutor further

points out that the prosecution has enough material to establish that the petitioner is the owner/occupier of the dance bar. The learned Public Prosecutor further points out that in such circumstances, there is no case made out by the petitioner to invoke the extraordinary jurisdiction of this Court to quash and set aside the FIR and the Charge-sheet.

5. We have considered the submissions of the learned Counsel and we have also gone through the record. It is well settled that the exercise of jurisdiction of this Court in quashing the FIR and the Charge-sheet should be very sparingly and only in cases in which there is no material to implicate the petitioner and the allegations are groundless. In the present case, on going through the supplementary statement, it reveals that there is a specific statement made by the complainant against the petitioner. On perusal of the affidavits of the complainant and other witnesses, we find that it is alleged therein that the information to name the petitioner was on the basis of some information furnished by a friend, though neither the particulars of such persons, nor the identity of such a friend have been disclosed therein. In such circumstances, examining the said affidavits to consider the submissions of the learned Counsel appearing for the petitioner would cause grave procedural irregularity to the case of the prosecution, at this stage and consequently, we are not inclined to exercise our extraordinary jurisdiction to quash the FIR and the Charge-sheet, at this stage. The petitioner, if so advised, can raise all

these contentions before the learned Magistrate, which shall have to be examined on its own merits, in accordance with law.

6. As such, on examining the material submitted by the respondents along with the Charge-sheet, at this stage, we find that there is no reason for our interference in quashing the FIR and the Charge-sheet filed by the respondent-State.

7. For the aforesaid reasons, we find no substance in the above petition which stands, accordingly, rejected.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

ssm.