

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.169 OF 2016

Ram Atmaram Patil

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.R.R.Tripathi for Petitioner.

Mr.J.P.Yagnik, APP, for State.

CORAM : N.H.PATIL AND PD.NAIK, JJ.

DATE : 6th June 2016

PC :

1. Learned advocate for the Petitioner submitted that the Police who investigated the crime was law and order Police and not the investigating Police. Reliance was placed on a decision of the Apex Court in case of **Prakash Singh and others Vs. Union of India and others**¹. On merits, learned counsel for the Petitioner submitted that a complaint was lodged by the Petitioner. Instead of taking cognizance of the said complaint, a false case was cooked up with the active assistance of Police officers by calling the complainant in the Village Panchayat office. The Petitioner is innocent person and he is roped in a false case and false accusations are made against him. Learned counsel further submitted that trial in the subject crime has already begun.

¹ 2006-AIR-SCW-5233

2. Learned APP submits that the issues raised before this Court are matters of defence which the Petitioner will take during the course of trial. Prima facie a case was made out by the complainant and the incident was investigated by the Police and charge sheet came to be filed.

3. We have perused the judgment cited and documents on record. The Apex Court in paragraph 31 of the said judgment issued various directions to the State Governments and Union Territories for compliance till framing of appropriate legislations. One of the direction relates to "separation of investigation", which reads thus :

"31. (1)

(2)

(3)

Separation of Investigation :

(4) *The investigating Police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full co-ordination between the two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more, and gradually extended to smaller towns/urban areas also."*

4. We have perused the record, the complaint and statements of the persons recorded by Police. Prima facie, we are not convinced to invoke our jurisdiction to quash and set aside the FIR and subsequent proceedings culminated into filing of a charge sheet. The Petitioner is entitled to appropriate defences during the proceedings of trial. Keeping all issues on merit open, we dismiss the petition with no order as to costs.

(PD.NAIK, J.)

(N.H.PATIL, J.)

MST