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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1089 OF 2015

Jaddasingh Antarlal Nat,
Age: 45 years, A/p. Bhavar, Tal.
Bhavar, Dist. Ajmer, Rajasthan

..Petitioner.

V/s.

1. State of Maharashtra,
through the Colaba police
Station, Mumbai
2. Istiaq Ahmed Basir Ahmed Mir,
Age: 26 years, Service, R/o. Plot
No.201, Kazi Building No.2, Ismail
Colony, Nal Bazaar, Paidhuni, Mumbai.
3. Manoori Ramroop Nat,
Age: 25 years, A/p. Bhavar, Tal. Bhavar,
District Ajmer, Rajasthan.
4. Geeta Ramesh Nat,
Age: 35 years, A/p. Bhavar, Tal. Bhavar,
District Ajmer, Rajasthan.
5. Bhuri Suresh Nat,
Age: 25 years, A/p. Bhavar, Tal. Bhavar,
District Ajmer, Rajasthan.

6. Parshi Sahebsingh Nat,
Age: 40 years, A/p. Bhavar, Tal. Bhavar,
District Ajmer, Rajasthan.

7. Ruby Sajjansingh Kanjar,
Age: 30 years, A/p. Bhavar, Tal. Bhavar,
District Ajmer, Rajasthan.

..Respondents.

Mr.Pandit Kasar for the petitioner.

Mrs.M.M. Deshmkh, APP for the respondent-State.

CORAM : NARESH H.PATIL AND A.M.BADAR, JJ.

RESERVED ON : 13TH APRIL, 2016

PRONOUNCED ON : 20TH APRIL, 2016

JUDGMENT (PER A.M.BADAR, J.)

1. By this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the petitioner / accused is praying for quashing and setting aside the F.I.R. bearing No.4/2014 for offences punishable under section 457, 380, 511 read with 34 of the Indian Penal Code, 1860 registered against him on the basis of the F.I.R. lodged by Police Naik Mohan Shivaji Patil on 4th January, 2014 with Colaba police station, Mumbai.

2. Heard learned counsel for the petitioner. By taking us through the entire charge-sheet annexed to the petition, he vehemently argued that there is no iota of evidence against the present petitioner and as such, the F.I.R. so also the resultant charge-sheet and criminal case against the petitioner needs to be quashed and set aside. According to the learned counsel for the petitioner, informant / Police Naik had seen five women sitting in front of shop named and styled as International Currency Exchange India Pvt. Ltd. in the night intervening between 3rd January, 2014 and 4th January, 2014. After apprehending those five women, suspected them to be thieves, F.I.R. in question came to be registered and during investigation, the present petitioner has been arraigned as an accused when there being no evidence against him.

3. As we could not find any *prima facie* evidence against the present petition in the charge-sheet annexed by him to the petition, we had requested learned APP to furnish photocopy of the entire set of charge-sheet in the matter of F.I.R. No.4/2014 registered with Colaba police station. Learned APP furnished the photocopy of the charge-sheet No.6/2014

arising out of F.I.R. bearing No.4/2014 registered with the Colaba police station, Mumbai for the offences punishable under section 457, 380, 511 read with 354 of the Indian Penal Code.

4. We have heard learned APP for the State.

5. Perused the charge-sheet placed on record by both the parties. According to the prosecution case, as reflected from the charge-sheet, during patrolling in the area of police station, Colaba in the night intervening between 3rd January, 2014 and 4th January, 2014, police squad headed by Police Naik - Mohan Shivaji Patil / informant found that five women were sitting in front of shop known as International Currency Exchange India Pvt. Ltd. in suspicious condition and it was revealed that they were trying to enter inside the shop by pulling out the shutter. Charge-sheet reveals that those five women were apprehended from the spot itself and offence came to be registered. During the course of investigation, spot panchanama came to be recorded and the Investigating Officer recorded statements of several witnesses, including Mayur Kokan, Nilesh Bhagale, Smt.Shanti Kanjar, Ramesh

Kokate, Ramesh Gawli, Rupesh Raut, Shrikant Karkar and Vinayak Desure. Most of them are official witnesses. According to the prosecution case, accused ladies were attempting to commit theft and lurking house trespass in the night. Perusal of the entire charge-sheet does not reveal any allegations against the present petitioner Jaddasingh Nat. He is not named by any witness nor any overt act is attributed to him in the entire charge-sheet. As such, even if the entire charge-sheet is accepted as it is, then also, no material could be found indicting the present petitioner in the crime in question. Thus, neither the F.I.R. nor the evidence collected in support of the same by the prosecution disclose commission of any offence by the present petitioner. As such, making him stand the rigor of trial would certainly amount to abuse of process of the Court and, therefore, for securing the ends of justice, inherent powers of this Court needs to be invoked for quashing the proceedings qua the present petitioner.

6. Though the petitioner has also prayed for awarding compensation for wrongful detention, during the course of hearing, learned counsel for the petitioner made a statement that now the petitioner is not interested in any compensation

and he is not pressing prayer clause (c).

7. In the result, the petition is allowed. F.I.R. bearing No.4/2014 and consequential charge-sheet No.6/2014 resulting in Criminal Case No.683/PW/14 qua the present petitioner for offences punishable under section 457, 380, 511 read with 34 of the Indian Penal Code, pending on the file of 8th Metropolitan Magistrate, Esplanade Court, Mumbai is quashed and set aside. Needless to mention that said criminal case as against the remaining accused shall continue.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)