

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1252 OF 2015

1. Bharat Devdan Salvi
Age 27 years, Occ: Business,
res. at Sarita Sangam Apartment,
Kasarwadi, Pune.
2. Smt. Teresa Devdan Salvi,
Age 48 years, Occ: Household,
R/at. Sarita Sangam Apartment,
Kasarwadi, Pune
3. Mary Ajay Kumawat
Age 29 years, Occ: Doctor,
res. at Man, Hinjewadi,
Pune
4. Shri Ajay Govind Kumawat
Age 34 years, Occ: Doctor,
res. at Man, Hindewadi,
Pune.
5. Shri Annasaheb Shankar Jadhav
Age 47 years, Occ: Agriculturist,
Res. at Newasa, Ahmednagar
6. Shri Madhukar Motiram Salvi,
Age 52 years,
Res. at Newasa, Ahmednagar
7. Sou. Paridhan Madhukar Salvi,
Age 52 years, Occ: Household,
Res. at Newasa, Ahmednagar

..Petitioners
(Org. Accused)

v/s.

1. The State of Maharashtra
through Senior Police Inspector,
Bhosari Police Station,
Bhosari, Pune.

2. Miss Luisa Petaras Jadhav,
Age adult, Occ: Household,
res. of Nyay Nagar, Galli No.8,
Ghar No.444, Garkheda Parisar,
Aurangabad

..Respondents

Ms. Kshitija G. Sarangi for the Petitioner.

Mr.S.S.Shinde, PP a/w. Mrs. S.V.Sonawane, APP for the
Respondent/State.

Mr. Satyavrat Joshi for the Respondent No.2.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

Date of Reserving the order: 17th July, 2015

Date of Pronouncement: 20th January, 2016

JUDGMENT (Per Anuja Prabhudessai, J.) :

Rule. Rule made returnable forthwith with the consent of
the parties.

2. This is a petition filed under article 226 of the constitution
r/w section 482 of the Code of Criminal Procedure for quashing the
C.R. No.46 of 2015 registered with Bhosari Police Station, Pune, for the
offences punishable under sections 376 and 417 r/w. 34 of the IPC.

3. The brief facts necessary to decide this petition are as under:-

The Respondent No.2 who was to marry the Petitioner No.1 had lodged the FIR dated 15.2.2015 alleging that on 9.12.2014, the Petitioner No.1 had sexual intercourse with her against her will and without her consent. The Respondent No.2 further alleged that subsequently the Petitioner No.1 and his family members called off the marriage and thereby cheated her.

4. Ms. Kshitija Sarangi, the learned counsel for the Petitioners has submitted that the FIR does not disclose offence under section 375 or 415 IPC. She has submitted that the marriage was called off in view of the lack of compatibility between the Petitioner No.1 and the Respondent No.2. She has further submitted that the Petitioner Nos.2 to 7 being the family members of the Petitioner No.1 were present at the time of finalising the marriage and they are not involved in commission of any offence as alleged. The learned counsel for the Petitioners has submitted that the allegations in the FIR do not disclose any offence and continuation of the proceedings will be abuse of process of law.

5. Mr. Shinde, the learned APP has submitted that the material on record prima facie shows the involvement of the Petitioner No.1. He fairly concedes that the material on record does not show the involvement of the Petitioner Nos.2 to 7 in commission of the offence under section 376 or 417 of the IPC.

6. Mr. Satyavrat Joshi, the learned counsel for the Respondent No.2 has submitted that the Petitioner No.1 had sexual intercourse with the Respondent No.2 under a false promise of marriage. He has further submitted that by calling off the marriage, the Petitioner No.1 and his family members have cheated the Respondent No.2.

7. We have perused the records and considered the submissions advanced by the learned counsel for the Petitioners, the learned counsel for the Respondent No.2 and the learned APP for the Respondent No.1-State.

8. The legal principles in regard to quashing of first information report had been considered by the Hon'ble Apex Court in *State of Haryana & Ors. V/s. Bhajanlal & Ors. 1992 SUPP (1) SCC 335* and several other subsequent decisions. Recently in *Rishipal Singh Vs.*

State of U.P. & Anr (2014) 7 SCC 215 the Apex Court while considering the scope and ambit of section 482 of the Cr.P.C. has held that

“A bare perusal of [Section 482](#) Cr.P.C. makes it crystal clear that the object of exercise of power under this section is to prevent abuse of process of Court and to secure ends of justice. There are no hard and fast rules that can be laid down for the exercise of the extraordinary jurisdiction, but exercising the same is an exception, but not a rule of law. It is no doubt true that there can be no straight jacket formula nor defined parameters to enable a Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The Courts have to be very circumspect while exercising jurisdiction under [Section 482](#) Cr.P.C.

9. The Apex Court after considering the previous pronouncements has reiterated the guidelines with regard to exercise of jurisdiction by the Courts under [Section 482](#) Cr.P.C. -

“What emerges from the above judgments is that when a prosecution at the initial stage is asked to be quashed, the tests to be applied by the Court is as to whether the uncontroverted allegations as made in the complaint prima facie establish the case. The Courts have to see whether the continuation of the

complaint amounts to abuse of process of law and whether continuation of the criminal proceeding results in miscarriage of justice or when the Court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the Court can exercise the power under [Section 482](#) Cr.P.C. While exercising the power under the provision, the Courts have to only look at the uncontroverted allegation in the complaint whether prima facie discloses an offence or not, but it should not convert itself to that of a trial Court and dwell into the disputed questions of fact.”

10. The present case needs to be examined in the backdrop of the above mentioned principles. A plain reading of the FIR reveals that the Respondent No.2 was to marry the Petitioner No.1, who is otherwise related to her. Their engagement ceremony was held on 12.9.2014 in presence of their respective family members including the Petitioner Nos.3 and 4, the sister and brother-in-law and the Petitioner Nos.5, 6 and 7, the maternal uncles and aunt of the Petitioner No.1.

11. The Respondent No.2 had alleged that on 2.12.2014 she had visited her cousin at Pune. On 9.12.2014 she visited the Petitioner

No.2, her would be mother-in-law, at Pune. The Petitioner No.2 persuaded her to wait till the Petitioner No.1 returned home from the work place. The Petitioner No.1 came home at about 9.00 p.m. and since it was late, the Petitioner No.2 advised the Respondent No.2 to stay over. The Respondent No.2 has alleged that on the same night when she was going to the room of her mother-in-law to sleep, the Petitioner No.1 took her to his room and had sexual intercourse with her against her wish and despite her resistance by assuring her that they would be marrying soon. She has stated that the Petitioner No.1 threatened to call off the marriage if she disclosed the incident to anyone.

12. The Respondent No.2 has further alleged that since the Petitioners avoided finalising the wedding date, she went to his work place on 24.01.2015 and questioned him about the same. There was an altercation between her and the Petitioner No.1 over the said issue. On 10.02.2015, the uncle of the Petitioner No.1 called her and her parents to Chisban village to fix the wedding date. However, instead of fixing the wedding date, they called off the marriage in view of the incident of 24.1.2015. The Respondent No. 2 claimed that petitioners have cheated her and her family by calling off the marriage without

any reason. Based on these allegations the aforestated crime has been registered against above Petitioners for offences punishable under sections 376 and 417 of the IPC.

13. It may be mentioned that to constitute an offence of 'rape' as defined under section 375 of the Indian Penal Code, the act must be covered by any of the six clauses of section 375 of the Indian Penal Code. In order to constitute rape under the first and second clause of Section 375, which are relevant for the purpose of this case, sexual intercourse has to be against the will and without the consent of the woman. In **State Of U.P vs Chhotey Lal (2011) 2 SCC 550** the Apex Court has held that:

“The expressions ‘against her will’ and ‘without her consent’ may overlap sometimes but surely the two expressions in clause First and clause Secondly have different connotation and dimension. The expression ‘against her will’ would ordinarily mean that the intercourse was done by a man with a woman despite her resistance and opposition. On the other hand, the expression ‘without her consent’ would comprehend an act of reason accompanied by deliberation.

...[In State of H.P. v. In State of H.P. v. Mango Ram](#)³, a 3-Judge Bench of this Court while dealing with the aspect of 'consent' for the purposes of [Section 375](#) IPC held at page 230 of the Report as under:

"Submission of the body under the fear of terror cannot be construed as a consented sexual act. Consent for the purpose of [Section 375](#) requires voluntary participation not only after the exercise of intelligence based on the knowledge of the significance and moral quality of the act but after having fully exercised the choice between resistance and assent. Whether there was consent or not, is to be ascertained only on a careful study of all relevant circumstances." and, the expression 'without her consent' would comprehend an act of reason accompanied by deliberation."

14. The averments in the FIR need to be examined in the backdrop of the above legal position. The Respondent no.2 was engaged to the petitioner no.1. A plain reading of the FIR reveals on the relevant night, when the Respondent no. 2 had visited the Petitioner No.1 at his residence at Pune, the petitioner no. 1 had tried to get intimate with her. When she resisted and told him that it was not appropriate, the

petitioner no.1 told her that they would soon be getting married. She has alleged that despite her resistance, the petitioner no.1 had forcible sexual intercourse with her against her will. She has stated that when she cried, the petitioner no.1 threatened to call off the marriage if she disclosed the incident to any one.

15. The allegations in the FIR prima facie indicate that the respondent no.2 had not consented to and was not willing to enter into a physical relationship, despite which the petitioner no.1 had forcible sexual intercourse with the Respondent no.2 against her wishes. The medical evidence is also prima facie suggestive of sexual intercourse. The allegations prime facie constitutes 'rape' under Clause 1 and 2 of sec.375. The question whether it was a case of passive submission under psychological pressure or whether it was a result of tacit consent are the questions which will have to be finally decided on analysis of evidence. Suffice it to state that quashing the FIR in respect of the offence under Section 376 against the petitioner no.1 at this stage would amount to rejecting the accusation made by the respondent no.2 without giving her any opportunity to prove the said allegations. Hence, the prosecution for the offence punishable under Section 376 of IPC cannot be quashed qua the petitioner no.1.

16. It is pertinent to note that the Petitioner Nos. 2 to 7 are the family members of the Petitioner No.1. There are no allegations in the FIR that these Petitioners had either aided or abetted the Petitioner No.1 in commission of offence under section 376 of the IPC. The only allegation against these Petitioners is that they had called off the marriage between the Petitioner No.1 and the Respondent No.2 and had thereby cheated the Respondent No.2. It is in the light of these allegations the offence under section 417 r/w. 34 of the IPC has been registered against the Petitioner No.1 and his family members.

17. “Cheating” is defined under Section 415 of the IPC which reads as under:-

“Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat” .

18. The Honourable Supreme Court in **G.V.Rao v. L.H.V.Prasad (2000) page 693** has held as under:

“As mentioned above, [Section 415](#) has two parts. While in the first part, the person must "dishonestly" or "fraudulently" induce the complainant to deliver any property; in the second part, the person should intentionally induce the complainant to do or omit to do a thing. That is to say, in the first part, inducement must be dishonest or fraudulent. In the second part, the inducement should be intentional. As observed by this Court in [Jaswantrao Manilal Akhaney vs. State of Bombay](#), AIR 1956 SC 575 = 1956 Cr.L.J. 1611 = 1956 SCR 483, a guilty intention is an essential ingredient of the offence of cheating. In order, therefore, to secure conviction of a person for the offence of cheating, "mens rea" on the part of that person, must be established. It was also observed in [Mahadeo Prasad vs. State of West Bengal](#), AIR 1954 SC 724 = 1954 Cr.L.J. 1806, that in order to constitute the offence of cheating, the intention to deceive should be in existence at the time when the inducement was offered. Thus, so far as second part of [Section 415](#) is concerned, "property", at no stage, is involved. Here it is the doing of an act or omission to do an act by the complainant, as a result of intentional inducement by the accused, which is material. Such inducement should result in the doing of an act or omission to do an act as a result of which the person concerned should have suffered or was likely to suffer damage or harm in body, mind, reputation or property”

19. In the instant case, the allegations in the complaint are that the petitioner no.1 had sexual intercourse with the respondent no.2 against her wishes, by stating that they would be marrying soon and later the petitioner no.1 and his family viz. petitioner nos.2 to 7 called off the marriage and thereby cheated the respondent no.2. The FIR

reveals that the imputations of cheating are made only because the Petitioners had called off the marriage.

20. In *Hridaya Ranjan Prasad Verma vs. State of Bihar (2000) 4 SCC 168* the Apex Court has held that:

“in determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time to inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise”.

21. In the instant case, the FIR reveals that the marriage of the Petitioner No.1 and the Respondent No.2 was finalised by their parents

and other family members and their engagement ceremony was held on 12.9.2014. The FIR does not indicate that the Petitioner No.1 from the very inception did not have intention to marry the respondent no.2. The FIR does not indicate that the Petitioner No.1 had obtained the consent of the Respondent No.2 and had induced her into entering into a physical relationship by making a false promise of marriage without having intention or inclination to marry her. The fact that the Petitioner No.1 subsequently refused to marry her would not lead to an inference that from the very inception the Petitioner No.1 did not intend to marrying her.

22. The records reveal that the marriage of the Petitioner No.1 and the Respondent no.2 was called off after the incident of 24.1.2015 when the Respondent No.2 had visited the workplace of the Petitioner No.1 and quarreled with him over non finalizing of the date of the marriage. A mere breach of promise of marriage or calling off the marriage due to non compatibility or for any such reason would not per se constitute an offence under section 415 of the IPC, particularly when the FIR does not state that the Petitioner No.1 and his family members had deceived the Respondent No.2 or intentionally induced her to do any such act which was likely to cause damage or harm to

the respondent no.2.

23. The allegations made in the FIR therefore, do not attract the ingredient of section 415 of the IPC and consequently do not constitute offence punishable under section 417 of the IPC. This being the case, the petitioners cannot be prosecuted for the offence punishable under section 417 r/w. 34 of the IPC.

24. At this stage, we would like to state that upon registration of C.R. No.46 of 2015 the Petitioner Nos.3 and 4 being the sister and brother-in-law of the Petitioner No.1 had filed an application for anticipatory bail. The said application was dismissed on the ground that no offence was registered against them. Suffice is to say that the registration of offence is not a *sine qua non* for entertaining an application for anticipatory bail. The only requirement is a reasonable apprehension of arrest in a non-bailable offence.

25. Be that as it may, upon dismissal of the said application for anticipatory bail, these two petitioners were arrested on 7.6.2015. They had filed an application for regular bail on 9.6.2015 being Bail Application No.1917 of 2015 before the learned Additional Sessions

Judge, Pune. By order dated 17th June, 2015, this Court had directed the learned Sessions Judge to dispose of the said application as early as possible and possibly on 19.6.2015 itself. Said order was not complied with. Considering the fact that the FIR did not disclose any offence against these two Petitioners, who are Doctor by profession, this Court by order dated 24th June, 2015 ordered to release them on bail.

26. It is pertinent to note that though the offence was registered under section 376 and 417 IPC, the FIR does not spell out any allegations of rape against the petitioner Nos.3 and 4. The Investigating Officer has stated in her affidavit that on 4.04.2015 she had received an application from the Respondent no.2 alleging that the petitioners no.3 and 4 had threatened her and that she apprehends threat to her life. It may be mentioned that no crime has been registered against these petitioners for threatening the Respondent no.2. These petitioners were implicated in the crime only on the allegation that they had influenced the petitioner no.1 in calling off the marriage and had thereby committed an offence of cheating punishable under section 417 of the IPC. Based on these allegations, these petitioners were arrested on 8.06.2015.

27. It is pertinent to note that the offence under section 417 is bailable and is punishable with imprisonment for one year, or fine or both, despite which these two petitioners were arrested and remanded to custody from time to time. Needless to state that the power of arrest as well as the power to remand cannot be exercised in a casual manner.

28. In *Joginder Kumar v. State of U.P. & Ors. (1994) 4 SCC 260*, the Apex Court has emphasized that:

“No arrest can be made because it is lawful for the police officer to do so. The existence of the powers to arrest is one thing. The justification for the exercise of it is quite another. The police officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner or on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as the

genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person his liberty is a serious matter.”

29. In the case of ***Arnesh Kumar v. State of Bihar & Anr. (2014) 8 SCC 273***, the Apex Court after considering the scope of Section 41 of Cr.P.C. has held as under:

“7.1. From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or

unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts. Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest. In pith and core, the police office before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses

(a) to (e) of clause (1) of [Section 41](#) of Cr.PC.”

30. Upon considering the scope of Section 41A of Cr.P.C. and while emphasizing the need to ensure that the police officers do not arrest the accused unnecessarily and Magistrate do not authorize detention casually and mechanically the Apex Court has given following

directions:

“.....11.1. All the State Government to instruct its police officers not to automatically arrest when the case under Section 498A of IPC is registered, but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.PC.

11.2. All police officers be provided with a check list containing specified sub- clauses under [Section 41\(1\)\(b\)\(ii\)](#);

11.3. The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of [Section 41A](#) of

Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that the directions aforesaid shall not only apply to the cases under [Section 498-A](#) of the I.P.C. or [Section 4](#) of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.”

31. Reverting to the present case, though the Investigating officer has stated in the affidavit that the guidelines as laid down by the Apex Court in the arrest of Accused were followed at the time of arrest, a perusal of the case diary reveals that the directions in Arnesh Kumar

(supra) have not been followed. The concerned investigating officer had arrested the petitioners no.3 and 4 without ascertaining their complicity in the offence. Though the offence was bailable, these petitioners were produced before the Magistrate and remand was sought for “the purpose of ascertaining the reason for calling off the marriage, for verifying whether the other relatives were involved, to verify whether these petitioners were involved in cheating any other person and for arresting the co-accused Annasaheb Jadhav”. The records reveal that the learned magistrate had also mechanically remanded them to custody from time to time without even ascertaining the nature of the allegations against these petitioners.

32. The petitioners no.3 and 4 had filed the bail application before the sessions court on 9.6.2015. The learned Sessions Judge had called for the say of the prosecution on 19.6.2015. By order dated 17.06.2015 the learned Judge was directed to dispose of the application on 19.06.2015 itself. The learned Judge did not dispose of the application and adjourned the same to 22.6.2015. On 24.06.2015 the learned counsel for the petitioners made a statement that on 19.6.2015 the counsel for the petitioners and the learned APP were present in the court and despite the request to hear the bail

application, the learned Judge was reluctant to hear the application and had adjourned the hearing to 22.06.2015. It was further stated that the counsel for the petitioners had appeared before the court on 22.06.2015 and that she was informed that the bail application would be heard in the afternoon session. However, by 12 p.m. she was informed that the learned Judge had proceeded on leave on medical grounds and the hearing of the bail application was further adjourned. In view of the above statement, this court by order dated 24.6.2015 ordered to release the petitioners on bail. The Principal District Sessions Judge, Pune was directed to submit the report to this court.

33. We have perused the report and the explanation tendered by the learned Judge, and the same in our view is not satisfactory. The bail application was filed on 09.06.2015 and was opposed on the same grounds as stated in the remand application. The learned Judge failed to consider that there were no allegations of rape against these petitioners and the only allegation were of offence punishable under Section 417 IPC. The learned Judge had adjourned the hearing on 19.6.2015, merely on the statement of the APP that the offence was of serious nature. Despite the direction to dispose of the bail application on 19.06.2015, and despite the offence being bailable offence, the

failure of the learned Judge to dispose of the application expeditiously has also resulted in illegal detention of the petitioners in custody from 7th June, 2015 to 24th June, 2015.

34. It is indeed a matter of great concern that despite the offence being bailable, the Investigating agency, the Judicial Magistrate as well as the Sessions Court were responsible for detaining the aforesaid petitioners in custody from 7.6.2015 to 24.6.2015 in total contravention of the directions of the Apex Court in Arnesh Kumar (supra) and in violation of the fundamental rights of the petitioner nos.3 and 4.

35. Hence we deem it fit to direct an enquiry against the errant police officers, as well as the concerned judicial officers, in accordance with the directions of the Apex Court in Arnesh Kumar (para 11.7 and 11.8. supra). The petitioner nos.3 and 4 are at liberty to file appropriate proceedings for compensation, if they so desire.

36. Under the circumstances and in view of discussion supra, we pass the following order:-

(i) The petition is partly allowed, with costs of Rs.50,000/-

to be paid to the petitioner nos.3 and 4.

(ii) The C.R.No.46 of 2015 registered at Bhosari Police Station, Pune, is quashed qua the Petitioner Nos.2 to 7 and quashed qua the petitioner no.1 only in respect of the offence under section 417 r/w 34 of the IPC.

(iii) The registry is directed to forward copy of this order to the Commissioner of Police, Pune. The Commissioner of Police, Pune to enquire into the matter of illegal detention and to fix the responsibility and to take disciplinary action against the erring police officers.

(iv) The respondent no.1 shall recover the costs of Rs.50,000/- from the erring police officers.

(v) The inquiry and action taken report be filed before this court within four months from the date of receipt of this order.

(vi) A copy of this order be forwarded to the Registrar General, High Court, to be placed before the Honourable The Chief Justice, Bombay High Court.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)