

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2673 OF 2013**

Arunabai Kaluram Darekar & Anr. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

Mr. Amit Sale, Advocate for the Petitioner.

Mr. A.S. Shitole, APP for the State.

Mr. Ajit Kocharekar, Advocate for respondents no.2 to 5.

Mr. A.S. Khandeparkar i/by Khandeparkar & Associates for respondents no.8, 10 and 11.

Mr. Sudhir Hardikar, Advocate for respondents no. 6 and 9.

Coram : Smt. R.P. SondurBaldota, J.

Date : 29th February, 2016

P.C.

1 This petition challenges the order dtd.20th August, 2009 passed by the Judicial Magistrate, First Class, Pune accepting "B" Summary filed by the police in C.R. No.127 of 2007. The petitioners are the sisters of the complainant and as per the complaint, they are injured eye witnesses. Their brother lodged complaint at Yerwada Police Station on 3rd April, 2007 for the offences punishable under Sections 395, 143, 147, 149,

323, 504, 506(2) Indian Penal Code against respondents no. 2 to 9 and 40 other unknown persons. Respondent no.10 to the petition is the complainant and respondent no.11 is allegedly another victim of the incident and the offence.

2 Respondents no.3 to 5 and 9 are the partners of Giridhar Constructions to whom by the agreement executed in the year 2004, development rights were given by respondent no.11 and other family members. Later as disputes arose between the parties, the agreement was cancelled. There are civil proceedings pending between the parties.

3 It is alleged by the complainant that on 3rd April, 2007 at about 4.30 pm, when all the family members including the petitioners were at the construction site, respondents no.2 to 9 alongwith 32 to 40 persons came to the land, they threatened to kill the complainant and his family members, assaulted the petitioners and robbed respondent no.11 of her Mangalsutra. The police recorded the statement of petitioner no.1 on the very next day i.e. on 4th April, 2007. In that statement, there is not even a whisper of assault on her and on petitioner no.2. She had in fact stated that when some persons relating to respondents no. 2 to 9 came to the site and desired to sit in the office of Giridhar Construction at the site, they were prevented

by the petitioners and other family members and they had in fact run away from the site. The complaint as regards robbery of Mangalsutra is also seen to be false, since as per the statement of petitioner no.1 herself, the Mangalsutra had fallen off at the site of construction and it was later on found by her. The police filed "B" Summary stating that the complaint filed was not genuine and it was a false complaint. The statement of petitioner no.1 recorded in evidence is sufficient to indicate that the complaint filed is a false complaint. Therefore, there is no infirmity whatsoever with the acceptance of "B" Summary by the learned Magistrate. The petition is therefore dismissed.

(Smt. R.P. SondurBaldota, J.)