

WRIT PETITION NO. 4696 OF 2015

Mr.R.P. Javanjal i/b. Mr.Aniket Gawand for the Petitioner.
Mrs.G.P. Mulekar, APP for the State.

DATE : 21st NOVEMBER, 2016.

3] The FIR No.59 of 2014 was registered at Sewree Police Station initially against Imran @ Ibrahim Ansari for offence punishable under Sections 363, 376 and 380 of the Indian Penal

Code, 1860 alongwith Section 4 and 12 of the Protection of Children from Sexual Offences Act.

4] During the course of investigation, it was revealed that victim left her father's house alongwith cash of Rs.2,50,000/- and she handed over this cash to the accused No.1 Imran @ Ibrahim Ansari. It was also disclosed that accused No.1 Imran @ Ibrahim Ansari has handed over some part of the cash to the present petitioner Mohd. Munir Sher Ali Ansari. The petitioner was accordingly arrested and charged under Section 411 of the Indian Penal Code, 1860.

5] After filing of the Charge-sheet, the petitioner filed application for discharge, which came to be rejected, by the learned Sessions Judge by his order dated 25th September, 2014. However, learned Single Judge of this Court by the order dated 29th July, 2015 passed in Criminal Application No.171 of 2015 discharged the petitioner.

6] Learned counsel for the petitioner submits that since petitioner stands discharged, it has to be held that his arrest was unlawful and therefore, he is entitled for compensation. We are not ready to agree with this submission.

7] The petitioner was arrested on the basis of the information and accordingly, Charge-sheet was filed. The arrest of the petitioner was necessary to recover the stolen amount. Therefore, his arrest cannot be said to be unlawful. The petitioner was produced before the trial Court and thereafter, remand was granted. The petitioner was discharged by Single Judge of this Court on ground that nothing has been recovered during the course of investigation and there is no direct or circumstantial evidence against the petitioner, which is admissible in law. However, that does not mean that there was no reasonable ground of his arrest. Merely because the petitioner is discharged, that does not mean that he was unlawfully arrested and detained.

8] In the light of the above, we do not find any merit and hence, the Writ Petition is dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]