

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 368 OF 2016

(Pravin Tukaram Gulhane Vs. The State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri V. G. Bhamburkar, Advocate for the applicant.
Shri V. P. Gangane, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : SEPTEMBER 20, 2016

Heard learned Counsel for the applicant and learned A.P.P. for the State. Perused the case papers including the first information report.

The allegations made against this applicant are quite serious in nature. It has been alleged that the applicant has assaulted the complainant by means of an iron rod. The complainant has stated that in the evening of 07/4/2016, this applicant came near him and forcibly made him alight from the Auto rickshaw and thereafter dealt blows of iron rod on his fore-arms as well as legs. These allegations, are supported by a medical certificate. The first information report has been lodged, however, on the next day.

Learned Counsel for the applicant submits that there was a quarrel between two unknown persons and the complainant and that the applicant has nothing to do with that quarrel. He further submits that in that quarrel, the complainant was beaten up by those

persons. He submits that the complainant has filed a false complaint against him because earlier he had also filed a complaint of assault against the complainant on the basis of which Crime No.431/2015 was registered and it was for an offence punishable under Section 324 of the Indian Penal Code.

Learned A.P.P. for the State submits that in respect of the incident involved in Crime No. 431/2015, which was of the date of 15/10/2015, even the complainant had filed a counter report, which was registered as Crime No. 432/2015 for similar kind of offence and that the present incident could be said to be fall-out of the previous incident.

Considering the fact that there has been no counter report filed by the applicant and also the fact that the allegations made against this applicant are supported by the injury report, I am of the view that there is substance in the argument of the learned A.P.P. that the present assault might have been the fall-out of the earlier report filed against this applicant by the complainant. The iron rod has been used in this case and that there is a history of committing a similar crime in the past.

Learned Counsel for the applicant by filing counter affidavit submits that the affidavit dated 01/8/2016 filed by prosecution is false, which states that Crime No.432/2015 was not

registered against the complainant and the fact is that this crime is also registered against the complainant along with the applicant.

On perusal of the first information report filed in Crime No. 431/2015, it appears that what was actually registered against the complainant was Crime No. 431/2015 and, therefore, it cannot be said that the affidavit dated 01/8/2016 is false. At the most, it could be said that this affidavit as well as the previous affidavit dated 16/6/2016 are silent on the point of registration of crime against the complainant as well, which is Crime No. 431/2015. For filing of such an affidavit, no blame could be put upon the shoulders of the complainant in this case. After all, for the reasons only known to the prosecution, such affidavits are filed and the case of the complainant could not be said to have been falsified, prima facie, because such affidavits are filed.

In the circumstances, I am not inclined to grant this application.

The application stands rejected.

JUDGE

wwf

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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