

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION 6 OF 2015

- 1] Subhash S/o Shankar Pawara
Age 31 years, Occ.Gram Sevak,
R/o Dhanaje (Bk.) Tq.Dhadgaon
Dist.Nandurbar.
- 2] Ajay S/o Shankar Pawara
Age 21 years, Occ.Shop keeper,
R/o Dhanaje (Bk.) Tq.Dhadgaon
Dist.Nandurbar.
- 3] Anil S/o Kuta Pawara
Age 24 years, Occ.Student
R/o Dhanaje (Bk.)Tq.Dhadgaon
Dist.Nandurbar. .. PETITIONERS

Versus

- 1] The State of Maharashtra,
Through Principal Secretary,
Home Department,
State of Maharashtra
Mantralaya, Mumbai-400032.
- 2] The Director General of Police
Maharashtra State
Police Head Quarter,
Fort, Mumbai.
- 3] The Deputy Inspector General of Police
Nashik Range, Nashik.
- 4] The Superintendent of Police,
Nandurbar, Dist.Nandurbar
- 5] Mr.M.Ramkumar
Age 34 years, Occu-

Superintendent of Police
Nandurbar, Dist.Nandurbar

- 6] Mr.Shivaji Gavit,
Age 45 years, Occu-
Sub Divisional Police Officer
Shahada Division, Dist.
Nandurbar.
- 7] Mr.Chandrakant S/o Popat Gangurde
Age 45 years, Occu-Police Inspector,
Pawarwadi Police Station, Malegaon
Tq.Malegaon, Dist.Nashik
- 8] Mr.Nana Daulat Bagul
Age 48 years, Occ-Asst.Police
Sub Inspector, Police Head
Quarter, Office of Superintendent
of Police, Nandurbar, Tq. &
Dist.Nandurbar. .. RESPONDENTS

[Respondent no.1 to 4 to be served
through Assistant Government Pleader,
High Court of Judicature of Bombay
Bench at Aurangabad]

Mr.Pradip R. Patil Advocate for petitioners
Mr.V.M.Kagne APP for Respondents 1 to 4
Mr.R.R.Mantri, Advocate for respondents 7 & 8.

**CORAM : S.S.SHINDE &
MANGESH S. PATIL, JJ.**

**RESERVED ON : 13/11/ 2017.
PRONOUNCED ON :29/11/2017.**

JUDGMENT (PER MANGESH S. PATIL,J.) :

- 1] Rule. Rule is made returnable forthwith. Heard finally
with the consent of all the parties.

2] This is a Petition under Article 226 of the Constitution of India for alleged violation of the fundamental rights of the petitioners guaranteed by Articles 21 and 22 of the Constitution of India with following prayers :

“A] By a writ of mandamus, orders or directions in the nature of mandamus, petitioners be granted appropriate compensation for their illegal detention on 30.10.2014 and illegal arrest on 03.11.2014 and 11.11.2014 contrary to the directions of Hon'ble Supreme Court of India in *Arnesh Kumar* and *DK Basu's* case.

B] By a writ of mandamus, orders or directions in the nature of mandamus, respondents be directed to register criminal case against the respondent no.7 Mr.Gangurde, Police Inspector Dhadgaon Police Station, Dist. Nandurbar under Prevention of Corruption Act and it be investigated by an independent officer.

C] By a writ of Mandamas the respondents be directed to hold a departmental inquiry in to the misuse of powers and illegalities committed by Respondent no.7 Mr.Gangurde.

D] By a writ of mandamus, orders or directions in the nature of mandamus, respondents be directed to hold a fresh enquiry in Crime Register No.56/2014 registered with Dhadgaon Police Station (**Exhibit “F”** page 27) by an independent police officer and report be submitted before this Hon'ble High Court.”

2] Shorn of details, the petitioners' averments are to the effect that they are residents of village Dhanaje (Bk) Tq. Dhadgaon, Dist.Nandurbar. The petitioners 1 and 2 are full brothers and the petitioner no.3 is their paternal cousin. Respondents 2 and 3 are the Director General and Deputy Inspector General of Police of Maharashtra and Nasik Range respectively. Respondent no.4 is the Superintendent of Police by designation. Respondent no.5 was the Superintendent of Police holding the post at

Nandurbar at the relevant time. The respondent no.6 is the Sub Divisional Police Officer who was at that time posted at Shahada Dist.Nandurbar. Respondent no.7 who has been arrayed by name was the Police Inspector posted at Dhadgaon police station and the respondent no.8 was the Assistant Police Sub Inspector posted at Dhadgaon police station. According to the petitioners, the petitioner no.1 was working as a Gram Sevak with Islampur Gram Panchayat, Tq. Shahada on the date of the incident. He was by his nature sensitive about the social cause and also had participated in the Scout movement. On 29/10/2014, at about 2.45 p.m. when he was sitting in a shop being run by petitioner no.2 at Dhadgaon, the petitioners noticed that one Pandurang Maka Pawara was being obstructed by one Dilawar Pawara, Maka Rehatya Pawara, Rakesh Pawara and others. These persons started beating Pandurang with sticks. As Pandurang as well as the attacking persons were both related to the petitioners, the petitioner no.1 informed the police about the incident through one Himmat Pawara. The entire episode was covered in the C.C. T.V. camera fitted in the shop of the petitioner no.2.

3] It is further alleged that on the same day i.e. 29/10/2014 at about 4 p.m. Dilawar Pawara, who was one of the assailants who had assaulted Pandurang, lodged complaint with Dhadgaon police for offences punishable under Sections 143, 174, 323, 325, 504, 506 *inter alia* naming petitioners as well. It was registered as C.R.No.56 of 2014. It was alleged that Dilawar Pawara's father was beaten by sticks by Pandurang and had lost couple of teeth. Petitioners were not aware about such registration of the crime against them till 30/10/2014.

4] On 30/10/2014, the respondent no.7 P.I.Gangurde called the petitioners to the police station at about 8 p.m. The other two accused Anil Kota Pawara and Pandurang were also called to the police station. P.I.Gangurde did not effect arrest of the petitioners but they were made to sit in the police station and then he demanded Rs.1,50,000/- for setting them free. The petitioner no.1 managed to collect the amount from his

relations and an amount of Rs.1,15,000/- was paid to the respondent no.7 P.I. Gangurde and then the petitioners were allowed to go home at about 11 p.m.

5] It is then alleged that on 3/11/2014 at about 2.30 p.m. one Maka Pawara assaulted the petitioner no.1 who sustained head injury. As a result, he was admitted in a hospital at Shahada for seven days. However, the petitioners 2 and 3 were arrested on the same day i.e. 3/11/2014.

6] It is the version of the petitioners that on 4/11/2014 petitioner no.1 lodged complaint with the respondent no.6 Sub Divisional Police Officer Shahada, alleging that he was being falsely implicated and even an amount of Rs.1,15,000/- was extracted from him. In spite of recording of his statement, the respondent no.6 S.D.P.O. did not come out with any action. However, the respondent No.7 learnt about such complaint made by the petitioner no.1 to the respondent no.6 and annoyed by it, the respondent no.7 arrested him on 11/11/2014 from his house at about 5 a.m. Then with a view to humiliate him and pressurise him, respondent no.7 took him to the house of Maka Pawara at village Telkhedi. He was then paraded in the bazar of Dhadgaon. To humiliate him further two constables were made to hold him and at 3 p.m., he was produced before learned JMFC Dhadgaon. In spite of the fact that the respondent no.8 was the investigating officer, the respondent no.7 took initiative in arresting him and parading him in the bazar. The respondent no.6 SDPO in spite of recording of statements of Hemabai and Karamchand from whom the petitioner no.1 had borrowed money for being paid to the respondent no.7, he was not given copies of the statements and the respondents 5 and 6 are attempting to shield the respondent no.7.

7] In the backdrop of such allegations on facts, the petitioners have contended that they have been falsely implicated in the case without there being sufficient material to implicate them in the offences charged. In

violation of the directions in the case of Arnesh Kumar V/s State of Bihar: (2014) SCC 273, no check list as per Section 41(1) of the Cr.P.C., was submitted before the Magistrate. It is then alleged that even after a charge sheet was filed in the Court of JMFC on 18/12/2014 the respondent no.7 without any reason and just to pressurize the petitioners called them to the police station. When the petitioner no.1 applied to the respondent no.4 Superintendent of Police, Nandurbar seeking permission to prosecute the respondent no.7, respondent no.7 threatened him of taking into police custody and thereby adversely affecting his service. Again on 6/12/2014, respondent no.7 went to the house of the petitioner no.1 and informed him that two more complaints were filed against him and if he wanted to get his name deleted, he should take back the complaint filed by him against the respondent no.7.

8] The petitioners have then alleged that when some human rights activists sought to take out a procession for the high handedness of the police machinery, the respondent no.7 issued a notice to them under Section 149 of the Cr.P.C, directing them not to take out the procession but still the procession was taken out and a representation was submitted to Tahsildar, Dhadgaon. It is thus alleged that inspite of such initiative taken by the petitioners to bring to the fore the high handedness of the respondents 7 and 8, the respondents 5 and 6 have not taken any action. Hence this Petition, with the aforementioned prayers.

9] The respondent no.4 in his capacity as Superintendent of Police, submitted his affidavit (page 108) and denied all the allegations, however, admitting that the offence was registered against the petitioners and that the petitioners were arrested. He has contended that after registration of the offence, Crime No.56/2014 against the petitioners and two others, petitioner no.1 absconded and could be arrested only on 11/11/2014. When the police constable Ashok Valvi wanted to record the statement of the petitioner no.1 since he had also lodged a complaint about an incident dated 3/11/2014, the petitioner no.1 was not found in the rural hospital,

Dhadgaon on 3/11/2014. On the next day when respondent no.8 inquired with the Medical Officer Dr.Pawara the whereabouts of the petitioner no.1, the Medical Officer told that the petitioner no.1 was referred to Shahada. Accordingly, when the respondent no.8 went to Om Hospital, Shahada on 5/11/2014, he found that the petitioner no.1 was admitted in the hospital. He was discharged from that hospital on 11/11/2014 and it is only thereafter that he was arrested by following all the necessary norms and procedure. Since he failed to furnish surety, after his pre arrest medical examination, he was produced before the learned JMFC, Dhadgaon alongwith a check list as per the directions in the case of *Arnesh Kumar*. He has specifically denied about any breach having been committed of any of the directions in the case of *Arnesh Kumar*. He has also denied that the petitioners were wrongfully detained in violation of their rights. He has further denied that the petitioners have been falsely implicated or that the respondent no.7 has extracted any money from the petitioner no.1. He has contended that the petitioner no.1 is Gram Sevak in Islampur, Tq. Shahada, Dist.Nandurbar, his wife is a Member of the Zilla Parishad, his father is Police Patil of the village Dhanaje, Tq. Dhadgaon and the petitioner no.1 has been taking part in the political activities. He has been interfering in the investigation. His superiors have also warned him about his such conduct and annoyed by such warning, with a *mala fide* intention, he has filed false complaint against the respondent no.7. The petition has no merits or substance.

10] The petitioner also filed an affidavit in rejoinder page 116 and denied the allegations in the affidavit in reply filed by respondent no.4. He has admitted that since he had suffered head injury, he became unconscious and was brought to the Rural Hospital, Dhadgaon, but since the Medical Officer noticed that the petitioner no.1 also started vomiting, he referred him to the Civil Hospital, Nandurbar. Since Nandurbar was 100 Kms. away from Dhadgaon, he preferred to go to Om Hospital, Shahada at a distance of 65 Kms. and therefore, it was not that he was avoiding arrest.

11] One Mahesh R. Ghurye who was appointed as a Superintendent of Police, Nandurbar, filed his affidavit in his capacity as respondent no.4 (Page 177). Broadly, he has taken a stand similarly to his predecessor. In addition, he has stated that the grievance of the petitioner no.1 was duly inquired into. He has contended that when a detail inquiry was ordered by his predecessor, it was transpired that no substance was found in the allegations.

12] Again the petitioner no.1 filed additional affidavit in rejoinder (page 182) to the affidavit in reply filed by respondent no.4 repeating the allegations in the earlier affidavits. Petitioners also filed affidavit of one Vasudeo Firangya Padvī (page 188) to state that a false case was lodged against him (Vasudeo) for an offence punishable under Section 354 of IPC by respondent no.7. Thereafter, he was threatened by respondent no.7 of converting the offence to rape punishable under Section 376 of IPC, Vasudeo was under duress taken to Additional Superintendent of Police Smt.Anita Patil and his signatures were obtained on blank papers without recording his statement and thus he disowned his statement recorded by Smt.Anita Patil.

13] It is necessary to note at this juncture that considering that there are so many facts in dispute and several affidavits and counter affidavits, by the order dated 3/8/2015 this Court had directed the learned C.J.M. Nandurbar to cause an inquiry by giving opportunity to the petitioners as also to the respondents and to submit a report. In pursuance of such direction, the learned C.J.M. Nandurbar has conducted an inquiry and has submitted a report dated 2/11/2015. After a full fledged inquiry, wherein opportunity was extended to both the sides to produce evidence, the learned C.J.M. has negated the allegations of the petitioners that the respondent no.7 had extracted any amount from them or that he had humiliated the petitioner no.1 by parading him in the market or that he had illegally detained the petitioners on 30/10/2014 between 8 a.m. to 11 p.m., and that petitioners have been falsely implicated. He has further denied

that the respondent no.7 having committed any violation of the directions of the Supreme Court in the case of *D.K.Basu* and *Arnesh Kumar*, on the ground that he was not the investigating officer and could not have followed these directions. However, the learned C.J.M. has found that the respondent no.8 has not followed the directions of the apex court while producing the petitioner no.1 in the Court of JMFC Dhadgaon on 11/11/2014 since he had failed to produce/submit a check list as per direction No.(11.3).

14] After such report was received, the respondents 7 and 8 were noticed and they submitted their separate affidavit in reply (page 187 and page 211 respectively). Obviously, both of them have denied all the allegations and have made statements in consonance with the affidavits filed by the respondents 4 and 5 referred hereinabove. The respondent no.8 has in addition, stated that he had produced a check list before the learned Magistrate, while producing the petitioner no.1. He has denied that he has not complied with the directions in the case of *Arnesh Kumar*. He has submitted copies of the remand papers (page 229 Annex.2) to show that when the remand report was submitted in respect of petitioner no.1 before JMFC, Dhadgaon, the learned Magistrate had only remarked that the direction in the case of *Arnesh Kumar* of issuing notice under Section 41(A) of Cr.P.C. was not complied with. However, the check list was also produced before the learned Magistrate who had seen it and had put an endorsement on it.

15] Petitioner no.1 has also filed an additional affidavit after submission of the report by the C.J.M. He has refuted conclusions drawn by learned C.J.M. According to him, the findings are contrary to the record and are perverse. According to him, the learned C.J.M., clearly ignored the fact that the arrest panchanama corroborates the fact that it was not necessary to arrest the petitioners. He has further contended that the learned C.J.M, has without any reason refused to believe the statements of Hemabai and Karamchand about having lend money to the petitioner no.1 for being paid

to the respondent no.7.

16] We have heard the learned advocate for the petitioner who has made submissions in consonance with the averments in the petition as also various affidavits filed by the petitioner no.1. He asserted that though the learned C.J.M. has recorded evidence, he has grossly erred in appreciating it in the proper perspective and has reached a wrong conclusion.

17] We have also heard the learned APP and the learned advocate for the respondents 7 and 8. They have supported the conclusions drawn by the learned C.J.M., except holding that the respondent 8 has breached the directions in *Arnesh Kumar's* case by not furnishing check list before the learned JMFC Dhadgaon while producing the petitioner no.1 on 11/11/2014 alongwith remand papers. According to the learned advocate, the conclusion is perverse inasmuch as the remand papers apparently show that when the petitioner no.1 was produced before the JMFC the learned JMFC passed an order and also endorsed on the check list by mentioning about having seen it.

18] We have carefully gone through the entire record, the affidavits and affidavits in rejoinder. We have also minutely gone through the report of the learned C.J.M. Since the allegations to the extent of respondent no.8 for not following the directions in the case of *Arnesh Kumar* by producing a check list has found favour with the learned C.J.M., we propose to deal with it at the inception. The learned C.J.M, has mentioned that the respondent no.8 being the investigating officer had not produced a check list as directed by the Supreme Court in the case of *Arnesh Kumar*. The directions read thus :

“11.1] All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest

under the parameters laid down above flowing from Section 41 Cr.P.C.

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 filled 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 Cr.P.C. 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."

19] However, the respondent no.8 alongwith his affidavit in reply has produced copies of these remand papers which ex-facie show that the petitioner no.1 was produced before the learned JMFC Dhadgaon on

11/11/2014 and the learned Magistrate passed following order :

“Accused No. 5 produced before me at about 3.10 p.m. He has no complaint of illtreatment at the hands of police. I.O. present. He requested to grant M.C.R. I. O. has not complied direction of Hon'ble Apex Court judgment in *Arnesh Kumar vs. State of Bihar*. Notice under as per Section 41 -A not issued. Hence accused is taken into Magisterial custody till 24.11.2014”

20] The remand paper is also annexed with a letter (page 231) and there is a specific endorsement by learned JMFC mentioning on it that he has seen it. This letter specifically mentions that it is a check list as required by Section 41 of the Cr.P.C. in respect of accused Subhash Shankar Pawara, who is the petitioner no.1 herein, in connection with Dhadgaon Police Station Crime No.56/2014 and it is addressed by respondent no.8 to the learned JMFC Dhadgaon. It is apparent that the learned JMFC was made aware about the directions issued in the case of *Arnesh Kumar* and has specifically seen this check list. He seems to have mentioned that there was no compliance in respect of directions in the case of *Arnesh Kumar* inasmuch as notice under Section 41-A was not issued. It is apparent that the emphasis was not on the absence of any check list but absence of notice under Section 41-A. Suffice for the purpose to observe that since the petitioner no.1 was already arrested and the check list was also produced under Section 41(1) of the Cr.P.C., there could not have been any compliance in the form of issuance of notice under Section 41-A of Cr.P.C. The observation of the learned JMFC in the order on the remand report of the petitioner no.1 that there was no compliance of the directions in the case of *Arnesh kumar* since notice under Section 41-A of Cr.P.C, was not issued will therefore have to be ignored. It is not clear as to how and why the learned C.J.M., has missed the point right in the teeth of the remand papers and the check list available on the record. Be that as it may, the observation in the conclusion of the learned C.J.M, that there was no check list is perverse

and erroneous.

21] As regards the allegations of the respondent no.7 having extracted an amount of Rs.1,15,000/- from the petitioner no.1, is concerned, the witness examined on behalf of the petitioners Hemabai who is the cousin of petitioner no.1 and his father in law Karamchand have obviously supported the petitioners and have stated about having lent Rs.50,000/- to the petitioner no.1 each. However, apart from the fact that these two are obviously the near relatives of the petitioner no.1 and were bound to support the petitioners. However, it is highly improbable that such a huge amount of Rs.50,000/- could have been readily available with these witnesses in the same night. Atleast there is no plausible explanation coming forth as to how there could have been such a huge amount available with each of them. Similarly, father of the petitioner no.1 also stated to have contributed Rs.15,000/- but again without any evidence about their occupation being flourishing enough so that such amounts would be available with them in cash seems improbable. Interestingly, the petitioners could examine as many as eight witnesses to prove about the petitioner no.1 having paid the amount to the respondent no.7 and his driver. The exaggeration is apparent. Besides considering the fact that Karamchand (PW-8) who is the father in law of the petitioner no.1 was a Medical Officer attached to Rural Hospital, Dhadgaon and it is unlikely that having heard about a demand for an amount of Rs.1,50,000/- by the respondent no.7, he would have easily budged to the request.

22] There is one more aspect which needs a specific mention at this juncture. Even by the petitioners' own showing some of the human rights activists had also taken initiative and had planned a procession against the high handed action taken by respondents no.7 and 8. If really the petitioner no.1 is involved in social activities and can influence even the persons connected with human rights, it is highly improbable and therefore unbelievable that the petitioner no.1 on the day one of occurrence of the incident could have easily budged to the pressure of respondents 7 and 8

to pass on the money. There could be only two reasons for this. Either the petitioners must have been involved in the actual incident or else they are lying. In either case, in our view, this is a very strong circumstance which creates a serious doubt about the allegations about respondent no.7 having extracted the amount. Thus, we find no sufficient reason to discard the conclusion drawn by the learned C.J.M. while recording negative finding in this respect.

23] Again as regards the allegations about the respondents 7 and 8 having humiliated the petitioner no.1 by parading him in the bazar of Dhadgaon, except the interested words of the petitioners and their relations, there is absolutely no other material/evidence to reach such a conclusion as has been rightly observed by learned C.J.M. If really procession had taken place in the bazar, there could have been many independent persons who must have witnessed the incident but no one is coming forward inspite of the fact that the petitioner and his father are public servants or are holding public office. Therefore, even we do not see any ground to discard the conclusion drawn by the learned C.J.M, negating the allegation that the petitioner no.1 was humiliated by parading him in the bazar.

24] Again, as regards the alleged wrongful detention of the petitioners in the police station from 8 a.m. to 11 a.m. on 30/10/2014, there is no cogent and reliable evidence. If at all the petitioner no.1 was since beginning making a grievance about the respondent no.7 having extracted money from him, he would have in the normal course raised a grievance before the Magistrate, if really he would have been wrongfully detained in the police station allegedly on 30/10/2014. We therefore, concur with the findings of the learned C.J.M, negating even this allegation.

25] Apart from above state of affairs, we also have come across certain circumstances which need a specific reference since those according to us, clearly show/demonstrate that the petitioner no.1 is not believable and

reliable and perhaps is acting with some ulterior motive.

26] On the one hand he is claiming to be involved in the social activities inspite of being in a Government employment as a Gram Sevak. He seems to be influential enough even to mobilize human rights activists against the injustice perpetrated against the people of his community but still has been able to conveniently pay the amount to the respondent no.7 to save himself from the clutches of law. If really the police or particularly the respondents no.7 and 8 were harbouring some grudge against him, they would not have registered offence at his instance on 3/11/2014. Therefore, this circumstance in our view would clinchingly suggest that it is unlikely that the respondents 7 and 8 could have indulged in extortion.

27] We further deem it necessary to point out that the material on record is sufficient to doubt the *bona fides* of the petitioners. Those would indicate as to how the petitioner No.1 has been involved in hide and seek. According to the petitioners, the petitioner no.1 was also assaulted by one Maka Pawara on 3/11/2014 at about 2.30 p.m., and had suffered head injury. The Station Diary Entry No.18 on 4/11/2014 at 10.20 hrs. specifically reads that when the police searched for the petitioner no.1 who was then yet to be arrested in this Crime No.56/2014, it was revealed that he was admitted in the Rural Hospital at Dhadgaon. However, he was not found there. The Medical Officer Dr.Pawara who incidently happens to be the father-in-law of the petitioner no.1 informed the police that the patient was referred to Shahada and he issued referral chit which is annexed with the affidavit of respondent no.8 by mentioning that the patient was admitted in the Rural Hospital on 3/11/2014 at 10.15 p.m. If the incident of assault on the petitioner no.1 had occurred at 2.30 p.m., it does not seem to be a sheer co-incident that the rest of the petitioners were arrested on 3/11/2014 at about 12-10 p.m., but the petitioner no.1 apparently made a complaint about assault on him at 2.30 p.m., by avoiding police, may be under the pretext of taking treatment went to the Rural Hospital, Dhadgaon where his father-in-law was Medical Officer and thereafter, in the same

night, got shifted to a private hospital at Shahada. He seems to have conveniently avoided his arrest till 11/11/2014 and in the mean time, managed to mobilize his well wishers to lodge complaints against the respondents no.7 and 8. In our opinion, the sequence of events makes it abundantly clear that the petitioner no.1 does not seem to be acting *bona fide* and has indulged in a blame game for the obvious purpose.

28] In the result, we find that there is no perversity, arbitrariness or capriciousness in the conclusion drawn by the learned C.J.M, except holding the respondent no.8 guilty of not complying with the directions in the case of *Arnesh Kumar* of issuing a check list to which we do not agree for the reasons discussed hereinabove. Even on the scrutiny of the material on record independently, we do not find sufficient and cogent reasons to question the conclusions drawn by the learned C.J.M. For the aforementioned reasons, we find no substance in the allegations levelled against the respondents no.7 and 8. We find no merit in the Petition, which is liable to be dismissed.

29] Petition is dismissed. Rule is discharged.

(MANGESH S. PATIL,J.)

(S.S.SHINDE,J.)

umg/