

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.403 OF 2017

Dharamsen Soni

....Petitioner

V/s.

The State of Maharashtra & Anr.

....Respondents

Mr. P.G.Pandey, Advocate for Petitioner.

Mr. S.R.Shinde, APP for the Respondent-State.

Mr. Kamble, PSI attached to M.Phule Chowk Police Station present.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 18TH SEPTEMBER, 2017.

PC. :-

By the above Writ Petition, the Petitioner seeks quashing of the FIR bearing CR No.I-458 of 2016 registered with M. Phule Chowk Police Station, Kalyan for the offences punishable under Sections 353, 504 of IPC registered on 1.12.2016 with the said police station. The said FIR has been registered by one Jaywant Ananda Shingade, Police Hawaldar having Buckle No.1659. The incident is of 1.12.2016. The first informant was detailed for duty at the main gate of the Court premises comprising the Courts of the District Judge, Kalyan and the other Courts. It is alleged that at

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around 17.15 hours, the Petitioner came on his Activa motor-cycle bearing registration No.MH-05-AU-5642 and entered the premises of the Court and was parking the said motor-cycle in the Court compound. At that time, the First Informant along with his colleagues Police Naik Gaikwad and Police Constable Avhad requested the Petitioner not to park his vehicle and the same may be parked outside the Court premises. It is alleged that the Petitioner then questioned the First Informant and his colleagues as to where the motor-cycle is required to be parked. It is further alleged that it was informed to the Petitioner that outside the Court premises, there is a parking lot where he should park his motor-cycle. Upon which he again questioned the First Informant and his colleagues as to where he is required to park his motor-cycle. Since he was told to park his motor-cycle outside the Court premises, the Petitioner got angry and used the word 'Useless' for the First Informant and his colleagues. It is further alleged that he used rude language and asked the First Informant that he would like to speak to his Inspector and asked for his phone number so that he could speak to him and that he would ask him where to park his vehicle as he is a person from the Central Government. It is further alleged that he started shouting at the top of his voice in a rude language and

refused to take his motor-cycle outside the Court premises and thereby prevented the First Informant from carrying out his duty and obstructed him from carrying out his duty. The offences were, therefore, registered under Sections 353 and 504 of the IPC. The learned APP Mr. Shinde points out that investigation is nearing completion and that the charge-sheet would be filed within short time.

2 It was the submission of the learned counsel for the Petitioner that taking the allegations in the FIR at their face value, they do not constitute the offence under Section 353 of the IPC. The learned counsel endeavoured to draw our attention to the definition of the terms 'Assault' and 'Criminal Force' and on such reading of the definitions of the said words, the learned counsel would contend that the ingredients of the offence under Section 353 of the IPC are conspicuously absent in the present case. The learned counsel sought to place reliance on the judgment of the Apex Court in **Criminal Appeal No.141 of 2015** in the case of **Manik Taneja & Anr. v. State of Karnataka & Anr.** in that regard. In so far as the quashing of the FIR is concerned, the learned counsel would seek to place reliance on the judgment of the Apex Court in the **State of Haryana & Ors. v. Bhajan Lal and Others** reported in **1992 Supp**

(1) **SCC page 335** and especially paragraph 102 thereof and clauses 1,3 and 4 of the said paragraph.

3 We have gone through the FIR as also perused the papers relating to the investigation carried out by the police. On such consideration, prima-facie we do not think that there is no material to proceed against the Petitioner under Sections 353 and 504 of IPC. In so far as the judgment of the Apex Court in **Manik Taneja & Anr. (Supra)** is concerned, the said judgment is revolving around the facts of the case where a comment was posted on facebook and in the said circumstances the finding was recorded and observation made by the Apex Court that essential ingredients of the offence under Section 353 was not satisfied in the said case. However, facts in the instant case as reflected in the FIR stand apart from the facts stated in the said case. As indicated above, the Petitioner herein brought his motor-cycle in the compound of the Court complex where the First Informant was detailed for duty and refused to take it out when requested to do so and was rude and shouted at the First Informant and his colleagues and also asked for his Inspector's number. The investigation papers contain the photograph of the notice board fixed at the entry of the Court premises stating that entry of the vehicles is prohibited in the Court

premises without permission. In so far as the judgment of the Apex Court in **Bhajan Lal (Supra)** is concerned, for the reasons afore-stated, this is not a case where the powers under Section 482 of the Cr.P.C. are required to be exercised.

4 In that view of the matter, no relief can be granted to the Petitioner. The Petition is accordingly dismissed.

5 Needless to state that observations made in the instant order would not influence the trial.

6 At this stage, the learned counsel for the Petitioner seeks continuation of the ad-interim relief. The said prayer is rejected.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)