

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 440 OF 2016**

Saddam Niyaz Khan	Petitioner
versus	
The State of Maharashtra and anr.	Respondents

Mr. Aniket U. Nikam, advocate for the petitioner.
Ms. Sangeeta D. Shinde, APP for the State.

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.**

DATE : 29th JUNE, 2017.

P. C. :

Heard the learned counsel for the petitioner and learned APP for the State.

2. The petition is filed for quashing the FIR bearing CR No.I-II/2016 registered with Bhiwandi City Police Station at the instance of the respondent No.2 against the petitioner for the offences punishable under Sections 307, 395, 397, 143, 147, 148, 149, 323 and 506(II) of the Indian Penal Code, 1860, Sections 3 and 25 of the Arms Act and Sections 37(1) and Section 135 of the Maharashtra Police Act.

3. We have gone through the subject FIR annexed at "Exhibit A" to the petition. The FIR discloses that the petitioner along with 30 persons assaulted the complainant with the help of revolver, choppers, and wooden sticks.

4. Mr. Nikam, learned counsel for the petitioner submitted that immediately prior to the subject incident, the petitioner sustained bullet shots and, therefore, the incident as alleged in the present FIR cannot be believed. We are unable to accept the submission at this stage. For the purpose of quashing the FIR, we have to accept the allegations as made in the FIR and the veracity of the same cannot be disputed at this stage. At the most, the submission of the learned counsel for the petitioner can be said to be a defense which can be proved at the time of trial. We are, therefore, not inclined to entertain the petition. The petition is, accordingly, dismissed.

(SARANG V. KOTWAL, J.)

[RANJIT MORE, J.]