

CRIMINAL WRIT PETITION NO.1995 OF 2015

Mr. Manoj S. Singh i/b. M/s. MKS Legal Associate for the
Petitioner.
Mrs. M.M. Deshmukh, APP for the Respondent No.1-State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 31st MARCH, 2017.

P.C.:-

Heard the learned counsel for the Petitioner and the learned APP for the Respondent -State. The Petition is filed for the following reliefs:

“a. That this Hon'ble Court be pleased to issue writ of mandamus or any such writ order or direction in the nature of mandamus directing respondent nos.1 and 2 to investigate the act and offences committed by respondent nos. 3 and 4 in order to implicate the petitioner in false and frivolous cases and submit a report before this Hon'ble Court.

b. That this Hon'ble Court be pleased to issue writ of mandamus or any such writ order or direction in the nature of mandamus directing respondent nos.1 and 2 to

appoint some independent body as this Hon'ble Court may deem fit and proper for the fair investigation against the respondent Nos.3 and 4 in order to prevent the miscarriage of justice.

c. That this Hon'ble Court be pleased to issue writ of mandamus or any such writ order or direction in the nature of mandamus directing the respondent Nos.1 and 2 to register a FIR against the respondent nos.3 and 4 if found them guilty after the investigation.

d. That this Hon'ble Court be pleased to restrain the respondent No.3 from investigating any crime suo moto against the petitioner save and except from the direction of superior officer and without registering a crime as per the law.

e. That the ad-interim and interim relief in terms of prayer clause (a), (b), (c) and (d) hereinabove be granted in favour of the Petitioner above named.”

2. The reliefs are claimed against the Respondent Nos.3 and 4 are in respect of the incident dated 31st January, 2012. The allegations are that the Respondent No.3 Police officer, on the direction of the Respondent No.4 forcibly entered in and ransacked the Petitioner's office and took away all the important documents from the office. It is

the case of the Petitioner that the Respondent No.3 harassed the Petitioner's entire office staff.

3. The learned APP, on instructions submitted that the Petitioner is the Editor and running a newspaper under the name and style as "Mumbai Lakshadeep". One Vijay Chandwadkar is the publisher of the said newspaper. The learned APP pointed out that earlier two writ petitions were filed, one by the Petitioner and one by said Vijay Chandwadkar in respect of the very same incident and those Petitions were withdrawn. She has submitted that there are serious cases pending against the Petitioner and since the Petitioner is evading his arrest a non bailable warrant has been issued against him.

4. At this stage, the learned counsel for the Petitioner sought leave to withdraw the Petition. The learned APP has opposed the request and submitted that since the Petitioner is in habit of withdrawing the Petitions and then filing fresh Petitions in respect of the same incident, the present Petition be disposed of on merits.

5. We heard the learned counsel for the Petitioner and we have also perused compilation of the Petition and earlier Petitions filed by the Petitioner. It is seen that one Vijay Chandwadkar, who is the

publisher of the daily newspaper “Mumbai Lakshadeep” had filed a Writ Petition No.2073 of 2012 in respect of the very same incident on the basis of which the present Petition is filed. This Petition was placed before the Division Bench for admission on 20th June, 2012. Upon hearing the Petitioner, notices were issued to the Respondents. The Petition was again placed before the Bench presided over by (Coram : A.M. Khanwilkar and R.Y. Ganoo, JJ.) on 27th August, 2012. However, the Petitioner therein sought leave to withdraw the Petition with liberty to approach this Court in case any persistent harassment is caused to the Petitioner.

6. It is pertinent to note that Vijay Chandwadkar did not file any Petition pursuant to the liberty granted by the Division Bench. However, the present Petitioner filed a Petition bearing Writ Petition No.382 of 2015 claiming the same reliefs as claimed in this Petition. The said Petition was placed before us on 12th March, 2015 on which date the counsel for the Petitioner, under instructions, sought leave to withdraw the Petition. Leave was granted and accordingly the said Petition was dismissed as withdrawn. Said order dated 12th March, 2015 reads thus:

“1. After hearing the learned Counsel for the respective parties at length, Mr. Najmi, learned Counsel for the

petitioner, on instructions, seeks leave to withdraw the petition. Leave is granted.

2. The Writ Petition is dismissed as withdrawn.”

7. Surprisingly, having withdrawn the previous Petition the Petitioner has once again filed the present Petition in respect of the same incident and with same averments and prayers. We are, therefore, of the opinion that this is nothing but abuse of process of law.

8. Be that as it may, the learned APP submitted that the report placed on record by the Senior PI, Sakinaka shows that there are five cases pending against the Petitioner, details of which are as follows:

Sr. No.	Police Stn. & Case No.	Section of Law	Remarks
1	Pydhoni Police Station C.R. No.432/87 C.C. No.2617/P/91 on 29/9/16 DF case	326, 114 of IPC	Petitioner accused Jagan Shinde is Absconder. Standing NBW is issued. Case status pending Trial.
2	Pydhoni Police Station C.R. No.105/91 C.C. No.529/P/92	302, 34 IPC	Accused Jagan Shinde wanted. Pending Trial.
3	Vakola Police Station C.R. No.372/03	387, 34 IPC	Accused Jagan Shinde is wanted. Case papers are missing.
4	DCB CID C.R. No.26/03	387, 34 IPC	Accused Rajubhai (Jagan Shinde) is wanted accused. Chhota Rajan is wanted accused.

			Case papers are missing.
5	Nalasopara Police Station C.R. 226/03	302, 34, 120(b) IPC r/w 3, 25 Arms Act	Accused Jagan Shinde was granted anticipatory bail. Chota Rajan is wanted accused.

9. It was also submitted that the Petitioner is absconding and a non bailable warrant has been issued against him. The learned counsel for the Petitioner at this stage submits that warrant is issued against Jagan Shinde and the present Petitioner is Dashrath Nandkumar Shinde. He submits that Jagan Shinde and Dashrath Shinde are two different persons. Falsity of the Petitioner's statement is evident from the cause title of the earlier Writ Petition No.382 of 2015, wherein the present Petitioner has described himself as Dashrath @ Jagan Shinde. In paragraph 12 of the said Petition the Petitioner has stated that Jagan is other name of Dashrath Shinde. From the above facts, it is evident that the Petitioner has been filing frivolous Petitions against the Police Officers with a sole object of evading arrest. We are, therefore, not inclined to grant leave to the Petitioner to withdraw the Petition.

10. We have gone through the records placed before us and we

find that there is absolutely no substance in the Petition. We are of the view that filing of such Petitions is abuse of process of law. We therefore dismiss the Petition with exemplary cost, which is quantified as Rs.50,000/- to be paid to the Police Welfare Fund. The Petitioner is directed to deposit the said cost within a period of four weeks from today. If the same is not deposited within the stipulated time, the Collector, Mumbai shall recover the same as arrears of the land revenue.

11. For compliance of the said order of the cost, we are adjourning this Petition to **2nd May, 2017**.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)