

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2479 OF 2017**

Ashraf @ Tatya Gulam Rasul Patel & Ors

..Petitioners

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. Subhash Jha i/b Mr. Subhash Hulyalkar for the Petitioners

Mr. J. P. Yagnik APP for the Respondent State

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 11th SEPTEMBER, 2017**

P.C.

1 The Writ Jurisdiction of this Court is invoked for a Writ of Certiorari, for quashing and setting aside the FIR being C. R. No.24 of 2017 registered with the Kashimira Police Station, District Thane. The said FIR has been registered on account of the incident which took place on 26-5-2017 in which incident the first informant was put on fire. The quashing sought is on the ground that Section 307 of the Indian Penal Code is not attracted in the facts of the present case wherein the first informant has suffered a simple injury. It is the case of the Petitioner that having regard to the nature of the injury suffered at the most offence that can be alleged against the accused is one under Sections 320 and 323 of the Indian Penal Code. The quashing of the FIR is also sought on the ground that the alleged delay in lodging the same. It is on the basis of the offences registered against the accused that the provisions of the MCOC Act have been applied in the present case.

2 In so far as the submissions of the Learned Counsel for the Petitioner are concerned, we are unable to accept the same. In so far as the offences punishable under Section 307 of the Indian Penal Code are concerned, the same is based on the statement of the first informant which statement is also supported by the injury certificate issued by the Municipal Corporation of Greater Mumbai, in which certificate it is mentioned that the Petitioner has suffered burns of the Grade-I category. The said burns are on the chest and the injury is simple. It is required to be borne in mind that it is the intention behind a particular act which is the defining aspect and not the nature of the injury suffered. In so far as the delay in lodging of the FIR is concerned, the said aspect would be a fact which can be dealt with at the trial of the said case.

3 In our view therefore, no ground is made out for interdiction of this Court in its jurisdiction under Section 482 of the Cr.PC., the above Criminal Writ Petition is accordingly dismissed.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]