

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4626 OF 2016

Shree Arun Kashinath Dhanawade ..Petitioner
Versus
Audumbar Bhalchandra Patil and ors. ..Respondents

Mr. N. B. Patil, advocate for the petitioner.
Ms. S. D. Shinde, APP for the State.

**CORAM : RANJIT MORE &
PRAKASH D. NAIK, JJ.**

DATE : 17th FEBRUARY, 2017.

P. C. :

Heard Mr. Patil, learned counsel for the petitioner and Ms.
Shinde, learned APP for the State.

2. The petition is filed for the following reliefs :

a) Be pleased to call for the record and proceedings of C.R.No.110 of 2016, pending before learned Judicial Magistrate First Class at Gadhinglaj and after going through legality, propriety and validity of the same be pleased to declare that detention of the present petitioner is illegal and contrary to the provisions of law.

b) Be pleased to declare that, arrest of the present petitioner made on 25/05/2016 is illegal and contrary to the provisions of law and against the guidelines set be (sic) Hon'ble Apex Court.

c) Be pleased award compensation for gross violation of Fundamental Rights and jeopardizing the personal liberty of the present petitioner by illegally detaining, torturing and for the mental agony caused to the petitioner at the hands of respondent no. 1 to 6,

d) Be pleased to direct the respondent no.7 to initiate the departmental Inquiry against respondent 1 to 6 herein for their illegal acts and for the contempt of guidelines issued by the apex Court;

3. The petitioner is an Assistant Police Inspector serving in Mumbai. On 24th May, 2016 at about 9.30 a.m., the petitioner's wife approached the Gadhinglaj Police Station and made a grievance against the petitioner that he had assaulted her, her parents, her brother and sister-in-law. She also made a grievance that the petitioner threatened them with service revolver. Thereafter, the petitioner at around 11.30 a.m came to the Gadhinglaj Police Station. The petitioner and his wife created ruckus and the petitioner also abused his wife and in-laws. When the In-Charge Police Officer tried to pacify the petitioner, the petitioner was in no mood to listen to anyone and he banged his head

against the wall. The petitioner also broke the CCTV camera and CCTV screen. In the facts and circumstances, C.R. No.110 of 2016 came to be registered with Gadhinglaj Police Station against the petitioner for offences punishable under Sections 309, 353, 504, 506 of the Indian Penal Code, 1860 and under Sections 5 and 7 of the Prevention of Damage to the Public Property Act, 1984. The investigation into the said CR is completed and charge-sheet is also filed.

4. It is the grievance of the petitioner that he was illegally detained in the Police Station from about 11.30 am of 24th May, 2016 till about 4.23 am of 25th May, 2016 and in the morning of 25th May, 2016, the FIR was registered and, thereafter, the petitioner was released on bail.

5. Learned counsel for the petitioner contends that without notice as contemplated under the provisions of Section 41 of the Code of Criminal Procedure, 1973, the petitioner could not have been detained. We are unable to accept this submission made on behalf of the petitioner. We have perused the FIR filed against the petitioner. The veracity of the allegations made therein cannot be gone into at this stage. The FIR discloses that on 24th May, 2016, the petitioner and his wife along with her parents had approached the Gadhinglaj Police

Station and there was some altercation between them. During the process, the petitioner also became unruly and he damaged the public property. In the circumstances, the petitioner cannot make any grievance that he was detained illegally. In such circumstances, we do not find violation of provisions of Section 41 of the Code of Criminal Procedure, 1973, and therefore, we are not inclined to entertain this petition. The petition is, accordingly, dismissed.

(PRAKASH D. NAIK, J.)

[RANJIT MORE, J.]