

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 569/2017
 (MINAKSHI DAMODHAR PATIL **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri A.K. Bhangde, counsel for the petitioner.
 Shri A.M. Joshi, A.P.P. for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
M.G. GIRATKAR, JJ.

DATE : SEPTEMBER 28, 2017.

By this criminal writ petition, the petitioner has sought disciplinary and criminal action against the respondent nos.1 to 5, viz. erring police officials and personnel. The petitioner has sought a direction against the respondents to register the first information report against the respondent no.5 on the statement recorded by the learned Judicial Magistrate First Class on 13.05.2017.

According to the petitioner, the petitioner had lodged a report against the respondent no.5 to the Commissioner of Police that the petitioner was arrested by the respondent no.5 in Crime No.68 of 2017 in respect of the offence of theft. The petitioner was remanded to the magisterial custody on 13.05.2017 and according to the petitioner, she had narrated about the physical and mental torture meted out to her, to the learned Judicial Magistrate First Class. According to the petitioner, her medical examination was conducted before going to the Court and the petitioner also took some photographs with the help of a photographer, pointing out the injuries on the hands and

other parts of the body of the petitioner. Since no action is taken by the other respondents against the respondent no.5 on the complaint/report lodged by the petitioner, the petitioner has approached this Court for an appropriate action against the respondents.

The respondent nos.1 to 5 have filed an affidavit-in-reply on 20.09.2017. It is stated in the said reply that the petitioner is an employee of Shri Jitendra Ghosekar and is working with him since the year 2005 as per the information received from his brother. It is stated that Jitendra Ghosekar and seven others were arrested by Police Station Kotwali and three serious offences including the offence of land grabbing is registered against him. It is stated that further investigation is conducted by the respondent no.5 in the offence registered against Jitendra Ghosekar and Jitendra Ghosekar has instigated the present petitioner to file this petition with a view to pressurize the police officer, who is conducting the investigation in the offence registered against Jitendra Ghosekar. The allegations made in the criminal writ petition about the mental and physical torture meted out to the petitioner are denied by the respondents. It is stated that when the petitioner was produced before the Judicial Magistrate First Class on 11.05.2017, she had not complained about any physical or mental torture to her. It is stated that on the other occasion, i.e. on 13.05.2017, when the petitioner was required to be taken to the Court, the petitioner refused to enter into the police jeep and used physical force to prevent the lady police constables from making her sit inside the jeep. It is stated that the lady police constables had to use some physical force by catching the petitioner by her arms

and wrist in order to make her sit in the police jeep so that she could be taken to the Court. It is stated that this is the only instance where the lady police constables touched the petitioner. It is stated that Police Inspector Tijare had no occasion to interrogate the petitioner or even to interact with her and the allegations made by her in that regard are false and concocted. It is stated that in the circumstances of the case, the criminal writ petition is liable to be dismissed.

From the material on record, we do not find that a case is made out by the petitioner for directing a departmental or criminal action against the respondent no.5. Firstly, no police officer is joined in the personal capacity. The respondent no.5 is the Senior Police Inspector, Police Station Kotwali, Nagpur but the Senior Police Inspector is not joined in person. Apart from the aforesaid, we find that there is word against word. It would be difficult to decide the questions involved in this writ petition in exercise of the writ jurisdiction. Apparently, we do not find that any injuries were caused to the knees of the petitioner as is sought to be depicted by the photographs that are annexed to the petition as the medical report shows trauma to the shoulder and hand but not the knees. The photographs annexed to the writ petition however show the injuries only to the knees of the petitioner which are not to be found in the medical papers. Since it is alleged that the petitioner is working with Jitendra Ghosekar and the respondent no.5 is investigating the offences in the cases that are registered against Jitendra Ghosekar, we cannot simply reject the plea of the respondents that the petitioner could be instigated by Jitendra Ghosekar to lodge this petition. Without recording any findings on the

issues involved in the writ petition, we would like to dispose of this writ petition so that the petitioner can avail any other remedy, if so advised.

In the result, the writ petition is disposed of with no order as to costs.

JUDGE

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