

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1399 OF 2014

Deependra Singh Kushwah,
Age : 34 Years, Occu. : Govt. Service,
Service as Collector, Sangli,
At present R/o Sangli,
Tq. & Dist. Sangli.

....Petitioner.

Versus

1. The State of Maharashtra
2. The Police Inspector,
Police Station Taloda,
Tq. Shahada, Dist. Nandurbar
3. Yamunabai W/o Bharat Thakare,
Age : 35 Years, Occu. : Labourer,
R/o Dongargaon, Tq. Shahada,
Dist. Nandurbar.

...Respondents.

Mr. P. S. Paranjape, Advocate for Petitioner.

Mrs. V.S.Choudhary, APP for Respondent Nos.1 and 2.

Mr. S. V. Mundhe, Advocate for Respondent No.3 (Appointed).

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.**

DATED : 01/11/2018.

JUDGMENT : [PER T.V. NALAWADE, J.]

- 1) The petition is filed for relief of quashing of F.I.R. No. 92/2008, which was registered with Taloda Police Station, Nandurbar for offences punishable under sections 3 (1) (x) (xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and section 354 of Indian Penal Code. Chargesheet is also filed in

the said crime and it is given R.C.C. No. 148/2010. No relief is claimed in respect of case filed in the crime. Both the sides are heard.

2) The crime is registered on the basis of report given by respondent No. 2. She is a tribal lady, aged about 30 years. It is here contention that on 23.9.2008 she had gone to Taloda to visit the office of Project Officer appointed for development of tribal people and present petitioner was working there as Project Officer. Along with her, there were around 100 ladies and they wanted to collect the cheques in respect of allowances, amounts made available by the Government under the project. It is her allegation that when she entered the office of petitioner and made inquiry about the cheques, the petitioner gave evasive answers and he gave abuses to her and to other ladies, who were with her by taking the name of her tribe which is scheduled tribe. It is her case that when she tried to raise grievance, the petitioner put his hand over her chest and pushed her and he also held hands of other ladies and he pushed them. It is her case that police were then called and all the ladies were driven out of office. Then office was locked. Report about the incident, which took place at 2.00 to 3.00 p.m. on 23.9.2008, came to given on 24.9.2008. Her supplementary statement came to be recorded on 16.10.2008 in which she admitted that on that day

after arrival of police at 7.00 p.m. the cheques were handed over.

3) With the chargesheet, there are statements of the ladies who were in the company of the first informant and they are consistent with the allegations made by the first informant to some extent. The statements, however, show that the Project Officer had intentionally avoided to hand over the cheques and even when they were present with their children, cheques were handed over in the night time. There are statements of some staff members of the office which support the present petitioner. The statements of the staff members show that they had said that the cheques could have been given only after production of the caste certificates and 2 to 3 days were required for the same. However, admittedly the cheques were given on that day in the night time.

4) The material collected shows that some incident did take place, but others have not supported the case of first informant that the petitioner had pushed her by keeping his hand on her chest and he had given abuses to the ladies by taking the name of their tribe which is scheduled tribe. Copy of report given by the present petitioner against those ladies (around 100 ladies) shows that he had made allegations in his report dated 23.9.2008 that they had circled him, they had given threat of filing atrocity case against him

and he was pushed and pulled by the ladies. The crime came to be registered for offence punishable under section 353 of IPC against the ladies on the basis of report given by present petitioner. This circumstance also shows that some incident did take place.

5) There is one technical problem in giving relief to the present petitioner. It appears that in the past, petitioner had filed Criminal Writ Petition No. 336/2011 and he had claimed following reliefs in the said writ petition.

“B) By way of appropriate writ, order or direction in the nature, the impugned order dated 16/03/2011 passed by the Ld. Additional Sessions Judge, Shahada in Criminal Revision Application No. 49/2010 and the order dated 25/03/2009 and 19/10/2010 passed by the Ld. Judicial Magistrate First Class, Taloda, District Dhule below Exh. 1 in B Summary No. 55/2008, may kindly be quashed and set aside.

C) Pending hearing and final disposal of this writ petition, the impugned order dated 16/03/2011 passed by the Ld. Additional Sessions Judge, Shahada in Criminal Revision Application No. 49/2010 and the order dated 25/03/2009 and 19/10/2010 passed by the Ld. Judicial Magistrate First Class, Taloda, District Dhule below Exh. 1 in B Summary No. 55/2008, may kindly be stayed and suspended.”

6) The submissions made and the record show that initially 'B' Summary Report was filed by the investigating agency in favour of the present petitioner, but the said report was not accepted by Magistrate and further investigation was directed. The other officer again gave 'B' Summary Report, but it is also rejected and further investigation was directed by Magistrate. Those orders of Magistrate were challenged by the present petitioner by filing revision in Sessions Court. Sessions Court dismissed that revision and Criminal Writ Petition No. 336/2011 was filed by the present petitioner. Order of disposal made by this Court on 26.9.2013 shows that during the course of arguments, the learned counsel for present petitioner sought permission to withdraw the petition and the petition was disposed of as withdrawn on 26.9.2013. Thus, the reasoned order made by the learned J.M.F.C. and Sessions Court were considered by this Court in previous proceeding and after that the petitioner had withdrawn previous criminal writ petition. It can be said that in present petition, petitioner wants similar relief. On the basis of allegations, there is direction of the Magistrate to make further investigation as the Magistrate is not satisfied with the investigation made by police. This order was considered by Sessions Court in revision and so, nature of allegations are considered by the Courts below and the Courts have formed opinion that further investigation

is necessary in the matter. In view of these circumstances, this Court holds that no relief can be granted at this stage. The circumstance of withdrawal of the previous proceeding after advancing argument is also against the petitioner. In the result, petition is dismissed. Interim relief is vacated. The fees of the learned counsel appointed by this Court for respondent No. 3 is quantified as Rs.5,000/-. It is to be paid through High Court Legal Services Authority Sub Committee at Aurangabad. Rule is discharged.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/