

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.489 OF 2016***

Mohammad Ajmal Khan ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

Mr.Vijay Killedar, for the Petitioner.

Mr.Avinash Kamkhedkar, A.P.P for the Respondent-State.

Mr.A.U.Nikam I/b Mr.Aashish Satpute, for the Respondent No.4.

API – Ganesh Gawade, Khadki Division.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 11th JULY, 2018

P.C. :

1. The above Writ Petition has been filed seeking a direction against the Respondent No.1 to investigate into the complaint of the Petitioner after registering the FIR through an independent Investigating Agency such as the State Crime Investigation Department or thorough any other Agency.

2. The FIR of which the Petitioner seeks registration of, is in

respect of an incident which took place on 9th November, 2015. The Petitioner is an employee of a shop. The incident is arising out of a person seeking to park his two wheeler opposite the shop where the Petitioner is working, thereby blocking the entry of the said shop. It appears that an altercation took place, as a result of which, the Respondent No.4 who is residing in the Police Quarters in the close vicinity of the shop intervened and separated the Petitioner from the assaulters. It seems that in the process the Petitioner suffered some injuries, for which the Petitioner was taken to the Cantonment General Hospital, Khadki, Pune. As a result of the incident an offence came to be registered against the owner of the shop, wherein the Petitioner is working and amongst the offences alleged against the Petitioner are ones under Section 307 of the Indian Penal Code. The Petitioner's statement came to be recorded on 10th November, 2015. In the said statement, the Petitioner has mentioned that the Respondent No.4 against whom he is now seeking registration of an FIR had intervened on account of which the Petitioner was saved from further assault. In the Report of the Cantonment General Hospital, Khadki, Pune, it is mentioned that 'History as given by the patient is that he was assaulted by the strangers at around 3.00 p.m.' The said Report is dated 10th July, 2018.

Hence the Report in a way fortifies what has been stated in the statement of the Petitioner recorded on 10th November, 2015. The Petitioner, therefore, did not have any grievance against the Respondent No.4 in the immediate aftermath of the incident and even thereafter when he was taken to the Military Hospital for treatment.

3. The Petitioner thereafter on 19th November, 2015 complained to the Commissioner of the Police, Pune. The conduct of the Petitioner therefore belies his case against the Respondent No.4. There appears to be substance in the contention of the learned APP that the relief sought by way of the above Writ Petition seems to be motivated on account of the FIR registered against his employer.

4. For the aforesaid reasons, we, do not deem this a fit case to exercise our discretion under Article 226 of the Constitution of India.

5 The Writ Petition is accordingly dismissed.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)