

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 214 OF 2019

Tanya Fraser

... Petitioner

V e r s u s

State of Goa through the
Public Prosecutor & 2 Ors.

... Respondents

Mr. L. Raghunandan, Advocate U/LAS for the Petitioner.

Mr. G. Nagvenkar, Additional Public Prosecutor for the
Respondents.

Coram :- C. V. BHADANG &
NUTAN D. SARDESSAI, JJ.

Date : 9th October, 2019.

ORAL ORDER

1. By this petition, under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the petitioner is seeking quashing of proceedings in Criminal Case No.359/S/2019/E pending on the file of the learned Judicial Magistrate First Class at Mapusa. In the aforesaid proceedings, the petitioner is being prosecuted for the offence punishable under Sections 504, 506 and 353 of the Indian Penal Code (IPC).

2. We have heard Mr. Raghunandan, the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. Perused record.

3. On behalf of the petitioner, reliance is placed on the decision of the Supreme Court in the case of **State of Haryana & Ors. vs. Bhajan Lal & Ors. 1992 Supp (1) SCC 335**. It is submitted that the present case falls under the following categories which the Hon'ble Supreme Court has found to be sufficient to quash criminal proceedings :

(i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(iii) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and

with a view to spite him due to private and personal grudge.”

4. It is submitted that the petitioner had earlier lodged a complaint in respect of the kidnapping of her daughter and had sought for transfer of the investigation of the said case to some other Investigating Officer. It is submitted that subsequently the petitioner withdrew the said complaint. However, the police authorities continued to visit the house of the petitioner (which are rented premises) although the petitioner had requested the police authorities not to visit her house and also expressing willingness to attend the Police Station whenever required or instructed. It is submitted that inspite of such request, the police authorities kept on visiting the house of the petitioner.

5. According to the complainant, (PSI Mr. Amin Naik of Mapusa Police Station), the incident occurred on 15.07.2019 when the petitioner is alleged to have abused the staff and also forcibly pushed LPC 7203 and LPC 8484 in the Police Station. The petitioner is also alleged to have claimed that the police have no right to visit her house. According to the Complainant, although there were efforts made to pacify her,

the petitioner disturbed the normal functioning of the Police Station.

6. On the basis of such a complaint dated 15.07.2019, an offence at Crime No.192/2019 with Mapusa Police Station came to be registered under Sections 504, 506 and 353 of IPC and upon completion of the investigation, the petitioner has been chargesheeted before the learned Magistrate.

7. On hearing the learned Counsel for the parties, it is not possible to accept that the present case falls under any of the categories as claimed on behalf of the petitioner which would require the proceedings to be quashed. Prima facie, it appears that even according to the complainant, she was claiming that the police were visiting her house inspite of a specific request to the contrary and a bare reading of the complaint shows that this was also the reason given by the petitioner when she visited the Police Station on 15.07.2019. There are prima facie allegations about the petitioner having forcibly pushed LPC 7203 and LPC 8484. During the course of the investigation, the statements of both these LPCs have been recorded which form part of the chargesheet. Prima facie, we are unable to accept that the allegations made in the FIR/complaint are so absurd and inherently improbable on the basis of which a

person could reach a just conclusion that there is sufficient ground for proceeding against the accused. Prima facie, it is also not possible to accept that the complaint is ex-facie actuated with malice.

8. Thus, after having carefully gone through the FIR and the statements, no case for quashing of the proceedings is made out. The petition is accordingly dismissed. Needless to mention, that the observations herein are only for the limited purpose of examining the plea made by the petitioner for quashing of the proceedings and the learned Magistrate shall not be influenced by the same at the trial.

NUTAN D. SARDESSAI, J.

C. V. BHADANG, J.

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