

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

CRIMINAL WRIT PETITION NO. 301 OF 2019

1. Mr. Navnath Baban Tanpure,
Age 59 years, Occu. Retired,
2. Mr. Sagar Navnath Tanpure,
Age 33 years, Occu. Service,

Both are R/o. At Post Nighoj,
Tal. Parner, Dist. Ahmednagar.

....Petitioner.

Versus

1. The Superintendent of Police,
Ahmednagar City, Dist. Ahmednagar.
2. The Police Inspector,
Parner Police Station,
Tal. Parner, Dist. Ahmednagar.
3. The Investigating Officer,
In Crime No. I 203/2018
Registered at Parner P.S.
Tal. Parner, Dist. Ahmednagar
4. Anisha Kishor Bhosale,
Age 25 years, Occu. Labour,
R/o. Nighoj Gavthan, Tq. Parner,
Dist. Ahmednagar.

....Respondents.

Mr. N.S. Ghanekar, Advocate for petitioner.

Mr. R.V. Dasalkar, APP for respondent Nos. 1 to 3.

Mr. S.N. Dudhate, Advocate for respondent No. 4 (appointed).

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 06/03/2020.

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

- 1) Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2) The petition is filed for relief of quashing of F.I.R. No. 203/2018 registered with Parner Police Station, District Ahmednagar for the offences punishable under sections 354, 323, 504 of Indian Penal Code (hereinafter referred to as 'I.P.C.' for short) and section 3(1)(w), 3(1)(R) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime is registered on the basis of report given by respondent No. 4, a lady aged 25 years. She has made allegations against the present petitioners who are father and son that on 17.6.2018 after 12.00 noon when she was passing by the side of the house of the petitioners, they gave her calls and they called her to narrow lane situated in front of their house. She has made allegations that for no reason, both the petitioners assaulted her by using fist blows and kicks. She has made allegations that petitioner Sagar touched her upper garment, pulled her towards him and pressed her and molested her. It is her contention that she was pregnant and due to the assault made on her and due to aforesaid act, she had severe pains. It is her contention that the wife of her brother in law rushed to the spot to save her, but she was also assaulted and abuses were given to her and after incident, both the petitioners ran away. As the report was given on 28.6.2018 in respect of incident dated 17.6.2018, this Court had directed to ascertain as to whether any report in respect of this incident was given to police in the past.

3) The learned APP produced on record copy of N.C. report dated 17.6.2018 given by the present informant. In that report, she had informed that on that day at about 12.00 noon when she was passing by the road, both the accused had given abuses to her and had given threats of life. Due to such allegations, only N.C. was registered.

4) Some record is produced by the petitioners to show that one petitioner had given application to Village Panchayat Nighoj and he had requested to pull down dilapidated building of Primary Health Center. No Government Office was there in that building and he had informed that some families were living in that building and some persons were creating chaos after consuming liquor in that building and building itself had become nuisance to the persons of that locality. The record is there to the effect that even Panchayat Samiti had given direction to the Village Panchayat to see that the building was pulled down and the public property was protected by erecting compound around that space. It appears that after passing of the resolution by the Village Panchayat, the construction was pulled down.

5) The family of respondent/informant was living in the premises and they felt that the loss was caused to them. Then the

quarrel started between the family of informant and the family of the petitioners. It appears that on the basis of one complaint given by police due to this dispute chapter proceeding was filed against the present petitioners under section 107 of Cr.P.C. The learned counsel for petitioners submitted that on that day, the informant and other lady members of her family had come to their house and they had started giving abuses to them as due to the petitioners the building was pulled down and the informant was feeling that loss was caused to them. The learned counsel submitted that audio and video recording was supplied to police, but police are taking the side of informant as in the past the petitioners had taken some steps in public interest. Copy of P.I.L. No. 70/2017 is produced on the record which was filed against the State Government for direction to see that the newly constructed building for Talathi Office was utilised. It was submitted that in public interest the petitioners take some steps and due to that even police had developed grudge and police filed chapter case against the petitioners when there are aforesaid circumstances.

6) It is not disputed that the dilapidated building was pulled down due to the application given by the petitioners. There was no other reason for the dispute between the two families. It cannot be believed that for no reason quarrel had taken place on 17.6.2018 at about 12.00 noon. In the first disclosure, totally different allegations

were made by the informant to police and those allegations do not show that the body of informant or her relatives was touched and offence of molestation was committed. This is totally new allegation made in the F.I.R. Further, there is no whisper in the F.I.R. in respect of N.C. registered on 17.6.2018. All these circumstances are sufficient to infer that subsequently new story was concocted as action as expected by informant was not taken by police. This Court holds that it will be abuse of process of law if the petitioners are directed to face the trial. In the result following order.

ORDER

- (I) Petition is allowed.
- (II) Relief is granted in terms of prayer clause 'B'.
- (III) Fees of the learned counsel appointed for respondent No. 4 is quantified as Rs.3,000/- and it is to be paid through High Court Legal Services Authority, Sub Committee, Aurangabad.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/