

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

CRIMINAL WRIT PETITION NO. 1229 OF 2020

Abdul Majid s/o. Shaikh Ahmed **....Petitioner.**

**Versus**

The State of Maharashtra & Ors. **....Respondents.**

Mr. G.B. Kadlag, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondents.

AND

CRIMINAL WRIT PETITION NO. 1233 OF 2020

Shaikh Nasrin d/o. Shaikh Majid **....Petitioner.**

**Versus**

The State of Maharashtra & Ors. **....Respondents.**

Mr. G.B. Kadlag, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondents.

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

**DATED : 13/10/2020.**

**ORDER :**

1. In the first matter, relief of direction is claimed that section 307 of Indian Penal Code ('I.P.C.' for short) be added in C.R. No. 478/2020 registered with Bhokardan Police Station. Direction is also claimed to transfer the investigation of the matter to C.I.D. In the second proceeding, similar relief is claimed. It appears that both

the proceedings were filed through the same counsel. Both the sides are heard.

2. The aforesaid crime is registered on the basis of report given by the petitioner on 29.9.2020. According to him, in the incident dated 28.9.2020 which took place at about 5.00 p.m. he and the members of his family were assaulted. In his family, at the relevant time, there were three issues and his wife. One Nasreen is his elder daughter. According to him, initially he and his two sons were present in his chicken shop and the other two members, his wife and daughter were at home. It is his contention that he learned that the accused persons like Alim Shaikh, Azim Shaikh and Shaikh Kalim had picked up quarrel with his wife and daughter and they had given threat of committing rape on them after entering in their house and so, he rushed to the house. According to him, he had driven them out of the house and then he had returned to the shop. It is his contention that after some time when he was present at the shop the aforesaid accused persons and other accused like Raju Shaikh, Jamil Hakim came to his shop with weapons like stick and axe and they picked up quarrel with him. It is contended that there was some previous dispute with these persons and in the quarrel, Shaikh Alim gave blow of axe from the blunt side on his head and caused him injury. According to him, his son Abujar was assaulted by Shaikh Jamil by giving blow of iron bar on his leg and fracture injury

was caused. According to him, in the incident Shaikh Gani gave blow of wooden log on the head of his son and caused bleeding injury to his son. According to him, his son Abdul Azim was assaulted by Shaikh Salim by using iron pipe and bleeding injury was caused to the head of Abdul Azim. It is his contention that all of them had become unconscious and these persons left the spot. According to him, they had then gone to police station and police had referred them to hospital. On the basis of report, the crime came to be registered for the offences punishable under sections 354-A, 325, 324, 270, 452, 188 etc. of I.P.C. and section 51 of Disaster Management Act, 2005.

3. The petitioner has produced the record of M.L.C. and case papers. The record shows that his one son sustained fracture injury of fibula right and history of assault was given. He also sustained some injuries. Abujar was admitted in hospital for treatment for few days.

4. The second proceeding is filed by Shaikh Nazreen and it is her contention that on that day there was incident of rape also and section 376 of I.P.C. ought to have been used. It was submitted that separate crime ought to have been registered. Copy of written complaint given on 29.9.2020 by Nasreen is produced and in that complaint she had made allegations that all the four accused like

Alim Shaikh, Azim Shaikh, Kalim Shaikh and Jalim Hakim had entered their house when she and her mother were present, they had assaulted them and they had misbehaved with her and they had intention to commit rape on her. Thus, in the written complaint also, no allegation was made that she was raped. The M.L.C. shows that some injuries were found on her person like contusion, blunt trauma and history of assault was given.

5. In the report given by father of Nasreen, he had mentioned both the incidents and due to that section 354-A of I.P.C. was used by police and it was treated that the incident took place on the same day as a part of the same transaction. In view of the aforesaid material, it cannot be said that police did not act fairly. This Court holds that the direction as claimed cannot be given in view of the material available. In the result, both the petitions stand dismissed.

**[ M.G. SEWLIKAR, J.]**

**[T.V. NALAWADE, J.]**

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