

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.42 OF 2018
(Sanju s/o Kanhuji Tembhurne vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.A. Madiwale, Assistant Public Prosecutor for
respondent nos.1 and 2.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : DECEMBER 17, 2020

Nobody is present for the petitioner. On the last date also, the petitioner as well as his learned Advocate were absent. This Court has given sufficient opportunity to the petitioner to argue his case before this Court, but it seems that the petitioner is not interested to avail of the opportunity afforded to him. In the circumstances, we have heard Shri Madiwale, learned Assistant Public Prosecutor for the respondent nos.1 and 2 on merits of the case.

2) The grievance of the petitioner is that on 24/9/2017, he was called to the Police Station, Jaripatka, Nagpur and was illegally detained by the Police for about three hours on the pretext of making an investigation into the complaint filed by

his wife, which gave rise to only registration of non-cognizable offences punishable under Sections 323, 504 and 506 of Indian Penal Code against him. According to the petitioner, such detention was illegal and it violated his fundamental right to liberty. The petitioner has, therefore, sought declaration to the effect that his detention was illegal and has further sought direction to the State to pay compensation of rupees ten lakhs to him.

3) We have gone through the detailed reply filed in the case by the respondent no.2. We have also considered the rejoinder filed on behalf of the petitioner. What emerges from the reply of the respondent no.2 and rejoinder filed by the petitioner is one common fact and it is about registration of non-cognizable offences punishable under Sections 323, 504 and 506 of Indian Penal Code against the petitioner on the basis of the complaint lodged by his wife. This fact is well established by the averments made on behalf of the petitioner as well as State. If this is so, the contention of the respondent nos.1 and 2 that the petitioner was called to the Police Station merely to ascertain the factual details and truth of the matter and if possible, to also enable the husband and wife to amicably settle their matrimonial differences, cannot be dismissed as untrue.

4) It is the specific stand of the respondent nos.1 and 2 that on being telephonically called by the respondent no.3, petitioner came to Jaripatka Police Station along with his friend Gopal Gajbhiye and when enquiry was made with the petitioner, he revealed that the complaint filed by his wife Sonali was false and the truth was that it was Sonali, who used to treat petitioner cruelly and insult him on many occasions over petty domestic matters. Having found out such position, the Investigating Officer, as stated in the reply, merely asked the petitioner and also his wife Sonali to spend some time in the Police Station so that there was a cooling down of their frayed tempers and possibility of even an amicable settlement between them. It has also been specifically stated that the petitioner as well as his wife were always free to move here and there in the premises of the Police Station and there was no compulsion for them to be always at Police Station. All these assertions detailed in the reply of the respondent nos.1 and 2 cannot be rejected as baseless and without any substance in the light of the commonly admitted facts in the present case.

5) In the circumstances, we find that there is no substance whatsoever in the case of the petitioner that he was illegally detained for about three hours at Jaripatka Police Station on 24/9/2017 and, therefore, there would be no question of

granting any declaration and compensation to the petitioner. Hence, the petition is dismissed.

JUDGE

JUDGE

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