

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

CRIMINAL APPLICATION (ABA) NO.345 OF 2020

(Krishna s/o Mallaya Kumbala Vs. State of Maharashtra thr. PSO PS Rajura, Tq.
Rajura, Dist. Chandrapur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Sangram V. Sirpurkar, Advocate for Applicant.
Mr. J.Y. Ghurde, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 21st OCTOBER, 2020.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2] Heard.

3] Before I advert to the merits of the application, it may be recorded that an adjournment was sought on the last date of hearing and it was made clear that the application shall be listed on the physical hearing board on 05.10.2020.

4] The matter was accordingly fixed on the physical hearing board on 05.10.2020. However, although the matter was fixed on the physical hearing board with the consent of the learned counsel Mr. Amol Hunge, the said

counsel did fail to attend the hearing. The learned counsel not only failed to appear, no request was made on his behalf by any colleague or any other person explaining the absence of the counsel. However, today Mr. Hunge has clarified that he could not attend in view of ill-health. The absence of the learned counsel is, therefore, satisfactorily explained.

5] Today, Mr. Sangram Sirpurkar has appeared and he states that the application is not properly drafted and therefore, the hearing be adjourned. According to Mr. Sangram Sirpurkar, it is not disclosed in the application that sometime in the month of March or April the informant assaulted the applicant and offence punishable under section 324 read with section 34 of the Indian Penal Code was registered against the informant and others vide Crime 200/2020 at Rajura Police Station. It would not be necessary to adjourn the hearing since I am taking the statement made by Mr. Sangram Shirpurkar at face value.

6] Adverting to the merits of the application, the first information report is lodged by one Gautam Kale, who is working as a Driver with W.C.L. The complainant alleges that on 02.08.2020 when he was parking the vehicle at the office of the General Manager, the applicant and three others came there in a four wheeler. The applicant was armed with a stick. The applicant broke the glass of the right window of the official vehicle and opened the door. The applicant forcibly removed Rs.13,000/- (Rupees

Thirteen Thousand only) and a Mobile from the trouser pocket of the complainant. The applicant then dragged the complainant out of the vehicle and he and the other co-accused assaulted the complainant with stick and fists. The other accused removed Rs.3000/- (Rupees Three Thousand only) from the pocket of the complainant. The Security Guard, Driver Santosh and Mr. Paranjpe came to the scene of the occurrence after hearing the shouts of the complainant and the applicant and his associate fled.

7] There is more than ample material on record to connect the applicant with the alleged crime. The statements of eyewitnesses are recorded and the eyewitnesses substantiate the allegations in the report. The injury certificate also substantiates the allegations in the report. The stolen property is to be recovered and the co-accused are to be identified. In this view of the matter, protecting the applicant would be derailing the investigation.

8] It is also relevant to note that the applicant appears to be a habitual offender and as many as five prosecutions are already pending.

9] Mr. Sangram Sirpurkar submits that there is a counter report lodged by wife of the applicant – accused against the brother and family members of the complainant. It is relevant to note that the complainant lodged the report

at 08:45 p.m. on 02.08.2020 pursuant to which the crime is registered at 01:08 a.m. on 03.08.2020. It is only after the complainant approached the police station that the wife of the applicant lodged a report at 10:00 p.m. on 02.08.2020 pursuant to which crime is registered at 01:30 a.m. on 03.08.2020. The subsequent report is likely to be a counterblast to the report lodged by the complainant. This of course is only a *prima facie* observation.

10] The submission that there is previous enmity and that Crime 200/2020 is registered against the complainant and others in March or April 2020, is duly noted. Previous enmity may be a motive for false implication and may as well be a motive for the crime. Be that as it may, in view of the statements of the eyewitnesses, and the injury certificate, *prima facie*, it is difficult to accept the submission that the applicant is falsely implicated.

11] The application is dismissed.

JUDGE

NSN

Nitin
Nikhare

Digitally signed
by Nitin Nikhare
Date: 2020.10.23
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