

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

CRIMINAL WRIT PETITION NO. 302 OF 2015

Dr. Dilip Pundlik Patil,
Age 44 years, Occu. Meducal Practitioner,
R/o. Ganesh Hospital, Near Bus-stand,
Bhadgaon, Tal. Bhadgaon,
Dist. Jalgaon

....Petitioner.

Versus

1. State of Maharashtra
2. Inspector General of Police,
Mumbai, Police, Maharashtra
Police Head Quarters,
Near C.S.T. Mumbai,
Dr. Shyama Prasad Mukhrji
Chowk, Colaba, Taluka
Mumbai, District Mumbai.
3. Special Inspector General of
Police, Nasik Range,
Gadkari Chowk, Nasik
Taluka and District Nasik.
4. The Superintendent of Police,
Jalgaon, at S.P. Office,
In front of Bus Stand,
Tal. & Dist. Jalgaon.
5. Assistant Police Inspector,
(Jaywant R. Satav)
[Name of respondent No. 5 deleted
as per order dated 30/6/2015]
Mehunbare Police Station,
Mehunbare, Taluka Chalisgaon,
District Jalgaon.
6. Shri. Asif Ali Sarwar Saiyed,
Age 55 years, Occu. Service,
R/o. At present posted at
Control Room, Jalgaon Police
Taluka and District Jalgaon.

7. Shri. Ravindra Bhimrao Patil,
Occu.- Police Head Constable,
Age 52 years, Occu. Service,
R/o. At present posted at
Mehunbare Police Station,
Chalisgaon, Tal. Chalisgaon,
District Jalgaon.

....Respondents.

Mr. Naseem R. Shaikh, Advocate for petitioner.

Mr. G.O. Wattamwar, APP for respondent Nos. 1 to 5.

**CORAM : T.V. NALAWADE AND
B.U. DEBADWAR, JJ.**

DATED : 21/01/2021.

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

1. The petition is filed for following reliefs :-

“a) Rule may be issued.

b) By way of issuance of writ of mandamus or any other appropriate writ, Respondent no. 1 to 3 may kindly be directed to take strict action according to rule of law against the Respondent no. 4 to 7.

c) By way of issuance of writ of mandamus or any other appropriate writ, Respondent no. 1 to 7 may kindly be directed to pay compensation to the tune of RS.10,000,00/- towards mental agony, trauma and harassment faced by the petitioner.

d) Any other and further relief as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

Heard the learned counsel for petitioner.

- 2) The learned counsel for petitioner is relying mainly on the affidavit of Anna Gulab Kamble. This affidavit was filed in the Court of J.M.F.C., Chalisgaon in C.R. No. 3016/2014. In that affidavit,

he has contended that on two occasions at the instances of one private party and police officer, he gave false reports against Dnyaneshwar Pundlik Patil of his village and on the basis of those reports crimes were registered against him for the offences punishable under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Special Enactment'). On the basis of this affidavit, the learned counsel for petitioner submitted that Dnyaneshwar Patil is brother of present petitioner Dilip Patil and there was instigation to give report against present petitioner Dilip Patil and Dnyaneshwar Patil and so, action of aforesaid nature needs to be taken against the police officers named in the affidavit.

3) This Court has considered the F.I.R. in C.R. No. 3016/2014. This report shows that he had made allegations that on the day of incident when he was alone and when incident took place and after the incident, he had gone to the President of Tantamukti Committee and before Tantamukti Committee he had expressed his grievance, Tantamukti Committee had asked the accused persons to tender the apology. Thus, the witnesses who were members of Tantamukt Committee could have been examined as their versions would have been relevant in that matter. In F.I.R. of C.R. No. 3005/2012 allegations are made that in the incident dated 29.4.2012 the accused persons had come in front of his house and thereafter,

by picking up quarrel they had given abuses and they had even assaulted him and that incident was witnessed by Sunil Gulab Patil, Pradip Garbad Koli, Nana Himmat Patil and Madhukar Patil and other persons of his community. Similarly, this incident was witnessed by his wife Sushilabai. Thus, he wanted to rely on the versions of these witnesses. The learned counsel submitted that these witnesses are also contending that police forced them to give such statements.

4) On the basis of aforesaid circumstances, it cannot be said that only the informant was lying, if at all he was lying. In such cases, there is always possibility of filing of proceeding under law of Tort for compensation. The possibility is that in anticipation of such possibility or filing of proceeding, the informant changed the side. The learned counsel drew the attention of this Court to the statements of the witnesses recorded before J.M.F.C. in C.R. No. 3005/2014. So, he did not oppose closing report. The learned counsel submitted that such statements were required to be recorded when notice was issued to get say on 'C' summary report filed by police.

5) When there are circumstances like above and when in the village there were two groups, who were interested in filing cases against each other, the Court is not expected to draw inference against police. When reports are given in respect of cognizable offences, ordinarily no option is left before the Court than to register

the crime. The provisions of section 4 of Special Enactment shows that it is incumbent on the police officers to register the crime when report of commission of offences under the Special Enactment is given. Thus, police cannot be blamed for registration of this crime. It is noticed that when one side gives report of commission of some cognizable and non bailable offence, these days, other side tries to use the provisions of Special Enactment. In such cases, police become helpless and they register the crimes. For all these reasons, this Court holds that it is not desirable to give directions against the police to take action against them. It will be unnecessary harassment to them and in law, it will not be possible to prove the allegations made against them which are very vague in nature and when there are no specific particulars.

6) The learned counsel for petitioner placed reliance on the observations made in following reported cases :-

(i) S. Nambi Narayanan v. Siby Mathews and ors. Etc. [AIR 2018 SUPREME COURT 5112],

(ii) Smt. Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble and Anr. [AIR 2003 SUPREME COURT 4567],

(iii) Mahesh Ram and Ors. Vs. State of Bihar and Ors. [2008 CRI.L.J. 59],

(iv) Sube Singh v. State of Haryana and Ors. [AIR 2006 SUPREME COURT 1117],

(v) Vasanthi v. Ch. Jaya Prakasha Rao and Ors.

[1996 CRI.L.J. 4243].

He submitted that the petitioner was unnecessarily harassed and he was illegally detained also in those cases and so, directions need to be given. It is already observed by this Court in this case that if there is real grievance, the accused can go under Tort Act against the informant, but instead of doing that the petitioner is trying to harass the police, who registered crime. The thing that they also filed 'C' Summary report also needs to be kept in mind. This Court holds that by using this jurisdiction under Article 226 of Constitution of India, such directions cannot be given. In the result, the petition stands dismissed. Rule is discharged.

[B.U. DEBADWAR, J.]

[T.V. NALAWADE, J.]

ssc/