

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 CRIMINAL WRIT PETITION NO. 587 OF 2021

SHARIF S/O AMBIRKHA PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. More P. P.
APP for Respondents : Mr. G. O. Wattamwar

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CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 28th JUNE, 2021

PER COURT:-

1. We have heard learned counsel Mr. More appearing for the petitioner at length.
2. We find no substance in this Writ Petition.
3. By this Writ Petition, the petitioner is seeking transfer of the investigation to other higher officer for a fair investigation in connection with Crime No. 120 of 2021 registered with Renapur Police Station, Renapur, District Latur.
4. On the basis of the complaint lodged by the father of the petitioner, the aforesaid crime came to be registered for the offence punishable under Sections 143, 147, 148, 149, 325, 324, 323, 504

and 506 of IPC. It is alleged in the complaint that on account of some land dispute, the accused persons extended beating to the father of the petitioner-informant and caused injuries on his person.

5. Learned counsel for the petitioner submits that even though the father of the petitioner was seriously injured and even though he sustained grievous injuries, section 326 was not added and only at the instance of the petitioner, subsequently it was added. Learned counsel submits that on the other hand, the allegations made in the complaint and also the medical history indicates that there was an attempt to take the life of father of the informant. Learned counsel submits that even though the name of one Khayyum Razak Shaikh, who is the master mind behind the crime, is mentioned specifically in the FIR, he has not been arraigned as an accused in connection with the present crime. Learned counsel submits that the father of the petitioner/informant succumbed to the injuries while under treatment in the hospital. Only after the dead body was taken to the police station, the Investigation Officer has inserted section 302 of IPC in connection with the crime. Learned counsel submits that the Investigating Officer has bias and the petitioner is not expecting fair investigation on his part.

Learned counsel submits that the Investigating Officer is insisting for settlement.

6. We find no substance in the submissions made on behalf of the petitioner. We have carefully gone through the allegations made in the complaint. It has been alleged in the complaint that the father of the petitioner was extended beating with the help of sticks, fist and kick blows. In order to register crime for the offence punishable under section 326 of IPC, it is rather necessary that grievous injuries have been caused by deadly weapons. Apart from this, at our request, learned APP has taken instructions and the Investigation Officer has submitted a report. It appears that in connection with the present crime, the Investigation Officer has effected arrest of near about three accused persons and also seized the weapons-sticks used in the assault. Furthermore, he has also added Section 302 of IPC on the very day when the deceased succumbed to injuries in the hospital. Apart from this, so far as the said Khayyum Razak Shaikh whose name is mentioned in the FIR is concerned, except a reference to his name that he had called the persons including the father of the informant at the spot for carrying out measurement, no other allegations have been made against him indicating his participation in the crime involving

physical violence. If at all during the course of the trial his participation is transpired in the crime, the trial court would be at liberty to add him as an accused by taking aid of Section 319 of Cr.P.C. Learned counsel Mr. More submits that the Investigating Officer is insisting for settlement. However, except bare allegations to that effect we do not find any supporting evidence about the same.

7. Learned APP submits that even the petitioner has given the name of the Investigating Officer as Ubale. In fact, Mr. N. G. Savle, PSI, Renapur Police Station is entrusted with the investigation and there are no allegations against him. It is pertinent that the petitioner is not even knowing the name of the Investigating Officer and he has incorrectly mentioned name of another person as the Investigating Officer entrusted with the investigation.

8. We find no substance in this Writ Petition. The Criminal Writ Petition is hereby dismissed.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)