

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1989 OF 2019

Ajaykumar S/o Babruvan Makane,
 Age: Major, Occu.: Business,
 R/o : At Aurad (Shahajahani),
 Tq. Nilanga, Dist. Latur.

... PETITIONER.

Versus

1. The State of Maharashtra,
 Through its Secretary,
 Home Department, Maharashtra State,
 Mantralaya, Mumbai 400 032.
2. Superintendent of Police,
 Latur, Dist. Latur.
3. Police Inspector,
 Police Station, Aurad (Shahajahani),
 Tq. Nilanga, Dist. Latur.

.... RESPONDENTS

...
 Mr. Mayur V. Salunke, Advocate for petitioner
 Mr. G.O. Wattamwar, APP for respondents
 ...

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

DATE : 13th JANUARY, 2021

ORDER :

The present petition is filed for giving directions to respondent, Police to register offence against the person, against whom the petitioner has dispute. The petitioner has produced copies of representations dated 15-10-2019 and 18-10-2019 given to the police and on the basis of these representations he wants to register the crime. Heard both the sides.

2. In the so-called representations, it is the contention of petitioner that he had taken loan from Mr. Shivaji Ramrao Bhandare and by way of security a nominal sale deed was executed on 01-11-2018 in his favour. It is contended that when he was ready to return the purchase amount, on 13-10-2019 Mr. Bhandare entered his house with other persons like Mr. Tanaji Ram Bhandare and local Gundas' like Padmasinha Patil and Mr. Chandrakant Bhandare with weapon and they gave threat to him. It is contended that they demanded amount of Rs.15,00,000/- from him and they started asking him to handover possession of the house. It is contended that when he promised to return the money whatever was due, he was assaulted. It is contended that in the incident gold ornaments worth Rs.1,20,000/- was taken from his person and cash amount of Rs. 10,000/- was also taken and then they went. It is contended that on the date of incident, he went to Police Station to give report, but his report was not accepted. In the proceeding, he requested to take action against these persons. This representation dated 15-10-2019 was addressed to Sub-Divisional Officer, Nilanga.

3. In the second representation dated 18-10-2019, which is addressed to District Superintendent of Police, Latur, the petitioner has contended that in October, 2018 he had taken loan from aforesaid Mr. Shivaji Bhandare and he had agreed to pay interest @ 3% p.a. It is contended that he executed a nominal sale deed of open plot by way of security. It is contended that there was an agreement of return of property after returning of the amount by the present petitioner to Mr. Shivaji Bhandare and accordingly one agreement was executed in his favour. It is contended that he then returned the amount with interest

and there was settlement and then when he requested to execute the sale deed of the property in his favour, Mr. Shivaji Bhandare demanded amount of Rs.10,00,000/- and after some days he started demanding amount of Rs.15,00,000/-. It is contended that house is still in his possession, but on 13-10-2019 aforesaid Mr. Shivaji Bhandare entered his house with his associates and he was assaulted. It is contended that on 18-10-2019 Mr. Shivaji Bhandare come with Police Constable Mr. Waman Rathod and then threat was given to him to handover possession of the house. It is contended that threat was given to implicate the petitioner in false case. It is contended by the petitioner that Mr. Shivaji Bhandare is moneylender and by using help of police he is likely to take possession of his house.

4. Learned APP produced on record a communication made by API of Aurad Shahajani Police Station, District Latur. It shows that the Police made enquiry into the allegations and they found that sale deed was executed in favour of Mr. Shivaji Bhandare. It was registered one and on that basis a mutation was made in the assessment record and 7/12 extract in favour of Mr. Shivaji Bhandare. It is contended that in the past also similar allegations were made by present petitioner against Mr. Sudarshan Trimbak Jiwai and Mr. Tirumalla Pulareddy. It is contended that on that occasion he had given two cheques of Rs. 2,00,000/- each and he had agreed to give other amount in cash but that was not given and then he had given report against those persons in Police Station and on the basis of said report a crime was registered under Section 406 read with Section 34 of the Indian Penal Code. It is contended that in that matter also there was dispute in respect of management of Bar, which

was given to Mr. Pulareddy for running by the petitioner. It was noticed that false allegations were made as case under Section 138 of the Negotiable Instruments Act, 1881 was filed against the petitioner. It is contended that petitioner wanted to see that said case was withdrawn and with that intention he had given the report. In that matter "C" summary report was filed. It is contended that petitioner is in habit to use the Police machinery in the circumstance of like mentioned above and so there is no need of registration of crime.

5. In the aforesaid two representations, the contentions made are inconsistent with each other. In first representation, there was no contention that there was an agreement of re-conveyance, however, in second representation he made contention that there was an agreement of re-conveyance. In any case, a dispute is of civil nature and he ought to have filed a civil suit, if he wants to take back the property by using agreement. Further, in both the representations, it is specifically mentioned by the petitioner that plot was sold i.e. open plot was sold but he has contended that there was an attempt to evict him from the house. It can be said that, apparently, the possession was handed over by the petitioner when he had executed registered sale deed, then he is trying to misuse the Police machinery and for that he wants direction from this Court. This Court holds that such directions cannot be given in the present matter. In the result, the petition stands dismissed.

Sd/-

[M.G. SEWLIKAR]
JUDGE

Sd/-

[T. V. NALAWADE]
JUDGE