

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 728 OF 2020

Chirag Chunilal Shah

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Sarthak Shetty for Petitioner.

Mr. K. V. Saste, APP for State/Respondent No.1.

Mr. Krishna Sarkate for Respondent No.2.

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 23 DECEMBER 2021

P.C. :

. Heard the learned counsel for the parties. Taken up for disposal.

2. The Petition is filed for following prayer:

“(b) To order to quash the charge sheet filed and pending in the Court of Ld. Metropolitan Magistrate’s 11th Court, Kurla vide Court Case No.PW/1436/2019 arising out of C.R.No. 21 of 2018 registered at Chembur Police Station, Mumbai for the offence punishable u/s 75 and 79 of The Juvenile Justice (Care and Protection of Children) Act, 2015.”

3. The F.I.R. was lodged by the police officer that, when he was on patrolling on his beat on 31 October 2018, he received an information that the Petitioner is using child labour. Accordingly the informant reached the spot which is shop of the Petitioner and found that the son of the Respondent No.2, 15 years of age, was employed in the shop of the Petitioner and was made to work for 12 hours from 9.30 to 21.30. On this allegation the F.I.R. was lodged.

4. When the Petition came up on board on 12 October 2021, the learned counsel for the Petitioner had made a statement that the Petitioner is desirous of exploring possibility of settlement where issue can be resolved upon monetary terms. Mother of the minor was added as a party Respondent No.2 in this Petition and notice was issued.

5. The learned counsel appeared for the Respondent No.2 and Affidavit is filed that the Respondent No.2 has no objection to quash the F.I.R. The learned counsel for the Respondent No.2 submitted, on instructions that monetary terms offered by the Petitioner of rupees Fifty Thousand as compensation is reasonable and that the minor was working because there is no adult member in the family and the Respondent No.2 is widow.

6. We have considered the fact circumstances. That the child was made to work for Rs.6000/- per month for 12 hours is correct. However, explanation is the desperate situation in the house of

Respondent No.2. The Petitioner, through the learned counsel, has stated that it was only because of this situation that child was employed and the Petitioner is willing to pay rupees Fifty Thousand as compensation. The Pay Order of rupees Fifty Thousand in the name of Respondent No.2 is given to the learned counsel for the Respondent No.2 who has acknowledged the same.

7. Considering these facts, we are of the opinion that the case is made out for exercise of extraordinary jurisdiction of this Court. Exercise of this extraordinary jurisdiction is ultimately to ensure that there is no failure of justice. The case at hand is one such case where action taken by the Petitioner and explanation given by the Respondent No.2 warrant to exercise this power.

8. The Writ Petition is allowed in terms of prayer clause (b) as above.

9. Order accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)