

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2671 OF 2021

Manmohan Gopiram Agarwal]
Age : 54 years, occ : Real Estate]
R/o. F-1/6/3, Gyandeep Society,]
Sector – 4, Vashi, Navi Mumbai.]..... Petitioner/Accused

versus

1] The State of Maharashtra]
(At the instance of Karjat Police]
Station, Raigad)]
2] Mr. Namdeo Kalu Pingala]
Age : 52 years, Occ : Farmer]
R/o House No.414, Sugave,]
Pingalewadi, Karjat, Raigad.]..... Respondents.

Mr. Dadichi Mhaispurkar a/w Mr. Sajal Yadav, Mr. S K Saxena, Mr. Harsh Gangurde, Mr. Raj Raut i/by Mr. Mitul Shah for the Petitioner.

Smt. A S Pai, PP for the Respondent/State.

Dr. Abhinav Chandrachud a/w Mr. Idris M Vohra & Mr. Vinod Shinde i/by Legal Affairs for the Respondent No.2.

CORAM : S. S. SHINDE,
N. J. JAMADAR, JJ

DATE : 05th August 2021

JUDGMENT : (PER S. S. SHINDE, J.)

1 Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2 This Writ Petition has been filed by the Petitioners for the following substantial relief :-

(a) This Hon'ble Court be pleased to quash and set aside the FIR bearing No.105 of 2021, dated 01.05.2021 registered with Karjat Police Station, Raigad, for the alleged offences punishable under Sections 504 and 506 of the Indian Penal Code, 1860 and under Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 with consequential reliefs."

3 The facts giving rise to filing of this Writ Petition can be, stated in brief, as under :-

It is the case of the Petitioner that the land bearing Survey No.37/6 situated at village Sugave is in the name of the 2nd Respondent and his sisters. Respondent No.2 is belonging to the Tribal Thakur Community/Thakur Tribe. In the year 2013, the Petitioner decided to purchase 2 acres of land from the 2nd Respondent. It is further the case of the Petitioner that in between 2013 and 2016 few payments were made by the Petitioner to Respondent No.2. In 2016 the affidavits of the Petitioner and Respondent No.2 were prepared. According to the Petitioner, the agreement for sale dated 19/05/2016 was entered into between the parties. It is further the case of the Petitioner that, the Petitioner repeatedly requested the 2nd Respondent to complete all the formalities for transfer of the said land, however, the 2nd Respondent refused to

do so despite taking the advance amount, and therefore, the Petitioner filed a complaint against the Respondent No.2 in respect of the said fraud committed by the Respondent No.2 at the Sanpada Police Station.

4 It is the allegation of the Petitioner that on 21/04/2021 when the Petitioner came at village Sugave, at that time, the 2nd Respondent inquired with the Petitioner about the remaining amount payable by the Petitioner to the 2nd Respondent in respect of purchase of his 2 acres of land. It is further alleged that at that time the Petitioner made casteist remarks, abused the 2nd Respondent and threatened him with motivated police action. It is alleged that after 6 days of the aforesaid alleged commission of offence, the 2nd Respondent has filed a complaint against the Petitioner at Karjat Police Station which culminated into the impugned FIR dated 01/05/2021.

5 Thereafter on 10/05/2021 the Petitioner was called for interrogation by the police . The statement of the Petitioner was recorded by the police. The Petitioner has also made a representation to the Deputy Superintendent of Police, Alibag, Dist. Raigad.

6 The learned counsel appearing for the Petitioner submitted that at the time of commission of the alleged offence registered against the Petitioner, he was not present on the spot of incident, and the impugned FIR is false. It is

also submitted that the the impugned FIR, which is registered at the behest of the 2nd Respondent with an ulterior motive against the Petitioner, is arising out of a purported land deal between the Petitioner and the 2nd Respondent. It is further submitted that the Petitioner is cooperating in investigation and his statement was recorded. It is submitted that the impugned FIR is nothing but an attempt of Respondent No.2 in connivance with others to illegally forfeit the advance received from the Petitioner. It is submitted that there is a long pending financial dispute between the Petitioner and the 2nd Respondent since 2013 and the impugned FIR is filed only after the Petitioner has filed complaint with the Sanpada Police Station concerning the above dispute. The learned counsel for the Petitioner submitted that the Petitioner is innocent and has not committed any offence as alleged against him. He, therefore, submitted that the impugned FIR registered at the behest of the 2nd Respondent against the Petitioner for the offences under the Indian Penal Code and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act may be quashed and set aside.

7 The learned counsel appearing for the 2nd Respondent submitted that the 2nd Respondent No.2 is a poor farmer, and the Petitioner did not give the amount as decided and mentioned in the agreement. It is submitted that at the time of alleged offence, when the Respondent No.2 asked the Petitioner about the balance amount, the Petitioner abused the 2nd Respondent upon his

caste and threatened him that crime shall be registered against them and they will be sent to jail. It is also alleged that in the presence of three persons the Petitioner used foul language, threatened and hurled casteist abuses at the 2nd Respondent. It is submitted that the offence committed by the Petitioner is serious in nature. It is therefore prayed that the Petition may be dismissed.

8 The learned Public Prosecutor appearing for the Respondent/State has supported the Respondent No.2-Original Complainant. She further submits that though it appears that the impugned FIR is the outcome of the land transaction, the investigation is not yet complete and the custody of the Petitioner will be required for further interrogation during the investigation. She therefore prays that the Petition may be dismissed.

9 With the able assistance of the learned counsel for the parties, we have perused the pleadings and grounds taken in the writ petition with annexures thereto. We have also perused the impugned FIR and other material placed on record.

10 While considering the prayer for quashing the FIR, the Court exercising the writ jurisdiction and inherent powers under Section 482 of the Cr.PC, has to confine itself to the allegations made in the FIR and, to find out whether alleged offences are disclosed or not, however, without entering into

the truthfulness or falsity of the said allegations. At this stage neither the truthfulness of the allegations nor the defence of the accused can be considered

11 Upon perusal of the pleadings in the Petition, it appears that there is a civil dispute pending between the Petitioner and the 2nd Respondent. However, upon careful perusal of the allegations in the FIR, prima facie, the alleged offences are disclosed and need further investigation. The allegations in the FIR disclosed the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. If the allegations in the FIR are taken on their face value and read in their entirety, the ingredients of the alleged offences are attracted and, consequently, the alleged offences are disclosed.

12 At this stage, when there is a prayer for quashing the FIR, it may not be desirable to elaborate the reasons since the investigation is in progress. Though it is submitted by the learned counsel for the Petitioner that there is a long pending civil dispute between the parties. Nevertheless, there are allegations in the impugned FIR that the Petitioner made castiest remarks, abused and threatened the 2nd Respondent. The defence of the Petitioner can be considered only during trial.

13 For the reasons stated in the foregoing paragraphs, there is no merit in the Petition and the same stands rejected.

14 Needless to state that the observations made herein above are prima facie in nature and are confined to the adjudication of the present Writ Petition, and the rejection of this Petition shall not be construed as an impediment to avail of an appropriate remedy as is available in law by the Petitioner in the event of filing of the charge-sheet by the concerned Investigating Officer.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]