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

***CRIMINAL WRIT PETITION NO. 1101 OF 2021***

Umesh Daulatrai Thakkar

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Hemant Ingle a/w. Aayush Shah i/b. M/s. Solicis Lex for the  
Petitioner

Ms. S.D. Shinde, APP for the Respondent - State

Dr. Yug Mohit Chaudhary a/w. Ajay Basutkar and Ms. Shruti  
Bedekar for Respondent No.2

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

***DATE : 4 OCTOBER 2021***

**P.C. :-**

Heard the learned Counsel for the parties.

2. By this Writ Petition, the Petitioner is seeking an order and directions to quash the FIR at C.R.No. 54 of 2020 registered with the Bhayandar Police Station, Thane for offences punishable under Sections 143, 147, 149, 323, 427, 447, 504, 506 of the Indian Penal Code r/w. Section 37(1) and 37(3) of the Maharashtra Police Act, 1951.

3. The First Information Report which was lodged on 20 February 2020 by the Respondent No.2 was on the allegations that the Respondent No.2 carries out the business of construction. It is stated that the Respondent No.2 had, as a part of joint venture, obtained development rights in respect of the property on 16 July 2004 and the possession of the property was given to him. It was further stated that one Jai Gurudev Realty had made certain fabricated deeds and the Respondent No.2 file a civil suit against them. It was also stated that an attempt was made by one more party named Pratima Pandey to take possession of the property. However, the Respondent No.2 resisted the same. It is further alleged that the partner of Jai Gurudev Realty had threatened the Respondent No.2 and were attempting to take possession of the property from them. The Respondent No.2 asserted that in the property he had leveled the ground and put up iron sheets as a compound. On 20 February 2020 the Respondent No.2 received information that 10-15 persons with JCB machines were attempting to trespass in the property and when the Respondent No.2 went to the spot, he was threatened. Accordingly, the FIR was filed naming the Petitioner with 10-15 persons under Sections 143, 147, 149, 323, 427, 447, 504, 506 of the Indian Penal Code r/w. Section 37(1) and 37(3) of the Maharashtra Police Act, 1951.

4. The learned Counsel for the Petitioner sought to contend that the basic ingredients of the Section invoked in the FIR

are not made out by the bare perusal of the FIR. It is submitted that as far as Section 447 of IPC is concerned, and the documents placed in this Petition that the Respondent No.2 was not in possession and once these documents show that the Respondent No.2 was not in possession, there cannot be any offence made out under Section 447 of IPC and consequently, the FIR under the other Sections invoked should also fall.

5. We have perused the First Information Report. At various places, right from the beginning, the Respondent No.2 has asserted that the Respondent No.2 is in possession. What the Petitioner is calling upon this Court to do is to give a declaration that the Respondent No.2 is not in possession relying upon the documents annexed to the Petition. This exercise cannot be done while considering whether the First Information Report can be quashed under the extraordinary jurisdiction of this Court. This question would be a matter of trial, or if the Petitioner seeks to invoke other remedies under the Code of Criminal Procedure. No case is made out to quash the First Information Report under the settled parameters.

6. We are not inclined to entertain this Petition. The Writ Petition is accordingly rejected.

***SARANG V. KOTWAL, J.***

***NITIN JAMDAR, J.***

**JYOTI  
PRAKASH  
PAWAR**

Digitally signed by  
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