

JPP

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

CRIMINAL WRIT PETITION NO. 3510 OF 2021

Shradha Sunil Kasurde

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. R.N. Gite for the Petitioner

Ms. M.H. Mhatre, APP for the Respondent - State

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

DATE : 12 OCTOBER 2021

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner is seeking quashing of the FIR registered under Section 452, 504, 506 of the Indian Penal Code at C.R. No. I-921/2021 registered at Niphad Police Station, Taluka – Niphad, District – Nashik.

3. The FIR was filed on 14 August 2021 by one Somnath Vinayak Panghavane. The gist is that in the evening of 13 August

2021 the Petitioner alongwith another person named Sachin Sandhan trespassed in the house of the informant with wooden sticks and demanded the pending amounts from the informant and threatened him that if he does not pay the amount, he will be killed by the wooden sticks. Thereafter, they started physical scuffling and giving abuses. Brother of the informant arrived and separated them.

4. The learned Counsel for the Petitioner submitted that the Petitioner at the relevant time was at her residence. The CCTV footage would also confirm the said position. The learned Counsel submitted that from the reading of the FIR no offence is made out and the Petitioner need not be subjected to the harassment of the full fledged trial. The learned APP opposes the Petition.

5. We have considered the arguments of the learned Counsel for the Petitioner within the well settled parameters of exercise of the jurisdiction under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure. The averments in the FIR show that the Petitioner and the other had trespassed in the house of the informant, having made a preparation of causing hurt with the wooden sticks and also putting the informant in fear of hurt or of assault. Section 452 is punishable with imprisonment which may extend seven years. Therefore, by the reading of the FIR it cannot be argued that no ingredient of Section 452 are made out. As regard the argument based on CCTV footage

is concerned, it will be defence of the Petitioner which the Petitioner can agitate at an appropriate stage. The Petitioner also has remedy under the Code of Criminal Procedure of seeking directions. In the light thereof, this cannot be considered as rarest of rare case to quash the FIR as laid down by the Supreme Court in the case of *M/s. Neeharika Infrastructure Pvt. Ltd. v/s. State of Maharashtra and Ors.*¹

6. The Writ Petition is rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

JYOTI
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PAWAR

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¹ AIR 2021 SC 1918