

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

CRIMINAL WRIT PETITION NO. 4323 OF 2019

Mohd. Halim Mohd. Hanif Khan
Age 51 years, Occ.: Journalist,
Indian Inhabitant, Residing at
Room No. 6, Kaisar Building,
Near Kurla Kabrastan,
Takshila Nagar, Quresh Nagar,
Kurla (E), Mumbai 400 070.

...PETITIONER

Versus

1. The State of Maharashtra
At the instance of
Chunabhatti Police Station
Chunnabhatti,
Mumbai 400 022.
2. The Commissioner of Police,
Greater Mumbai, having
Office at Mumbai Police
Head Quarter, Opp. Crawford
Market, Mumbai 400 001.
3. The Deputy Commissioner
of Police,
(Zone VI), Chembur, Mumbai
Having office at
Administrative Building,
4th Floor, R.C. Marg,
Chembur (E)
Mumbai 400 001.

..RESPONDENTS

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Mr. Jigar Agarwal a/w. Ms. Asma Ashrafi i/b. Mr. Shafi Shaikh for the
Petitioner.

Mr. Deepak Thakre, PP a/w. Mr. V B Konde-Deshmukh, APP for
Respondent-State.

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**CORAM : S. S. SHINDE &
MANISH PITALE, JJ.**

**RESERVE ON- 23rd FEBRUARY 2021.
PRONOUNCED ON- 25th FEBRUARY 2021.**

ORAL ORDER:

. This petition is filed for following substantive prayers:-

(a) This Hon'ble Court may be pleased to issue Order and direction in the form of Writ of Mandamus or any other Writ directing the Respondent No. 1 to delete the name of the Petitioner into the impugned FIR No. 221 of 2019 under Section 452, 323, 324, 504, 506 (II) read with 34 of IPC dated 16.08.2019 registered with Chunabhatti Police Station, Mumbai;

(b) The Hon'ble Court may be pleased to direct the Respondent Nos. 2 and 3 to make enquiry into the matter and submit the report to this Hon'ble Court and take action against the Respondent No. 1;

2. Learned counsel for the petitioner submits that the petitioner was not present at the alleged place of occurrence. The Petitioner is a journalist by profession who has highlighted the corruption in respect of illegal constructions in the vicinity by publishing news. The Petitioner was not present at the spot of incident as he was resting at his home throughout the day from morning to evening 6.15 p.m. The neighbours are witnesses in respect of the presence of the petitioner at his home which the police did not consider. The local police is against the Petitioner as he was brought and

published news against them from time to time in respect of false implication of the innocent persons and not taking action against the wrongdoers. The complainants are the anti-social elements involved in illegal constructions and there are various criminal cases pending against them in various Courts. It is submitted that there is CCTV footage showing that the petitioner had got down from his building at about 6.15 p.m. to proceed to police station to collect the news in respect of the incident taken place at 3.45 p.m. It is after three days of the incident, the petitioner came to know that his name was included falsely by managing the officer incharge of Chunabhatti police station by name Mr. Babusha Pandit.

3. Mr. Deepak Thakre, learned Public Prosecutor appearing for State relying upon the investigation papers submits that CDR record would clearly show that the petitioner was at the place of incident at the relevant time. He participated in the alleged commission of offence. An overt acts are attributed *qua* the petitioner. There are two eye witnesses who witnessed the incident and they have named the present petitioner.

4. Upon hearing learned counsel appearing for the petitioner and learned APP for the State and upon perusal of contents of FIR, so also, statement of two eye witnesses, it is abundantly clear that the petitioner

alleged to have been participated in the commission of offence. Overt acts are attributed to him. *Prima facie* alleged offences are disclosed against the petitioner. No case is made out to quash the FIR, hence, the writ petition stands rejected.

5. The observations made herein above are *prima facie* in nature and confined to the adjudication of the present writ petition only.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)