

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 892 OF 2021

(Amjad Khan s/o Aziz Khan & Anr. Vs. The Commissioner of Police, Near NMC Office,
Chaoni, Sadar, Nagpur & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. D.N. Mehta, Advocate for the petitioners.
Mrs. M.A. Barabde, A.P.P. for the respondents.

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**CORAM : M.S. SONAK &
PUSHPA V. GANEDIWALA, JJ.
DECEMBER 21, 2021.**

Heard Mr. Mehta, learned counsel for the petitioners, and Mrs. Barabde learned A.P.P. for the respondents.

2] The allegations in this petition are that the respondents – Police Officials are acting at the behest of the Hazrat Baba Tajuddin Trust and interfering with the business of the petitioners, i.e., the business of operating a pan shop.

3] Significantly, though serious allegations have been made against the Trust and its members, the petitioners have not bothered to implead the Trust or its members as respondents. The learned counsel for the petitioners admitted that the petitioners have already instituted a suit against the Trust and also applied for injunctive reliefs, but the

reliefs have not to date been granted. The learned counsel for the petitioners points out that the petitioners apprehend that the police will involve them in certain crimes which they allege, they have never committed.

4] The learned counsel for the petitioners also referred to the legal notice dated 17/10/2021 addressed on behalf of the petitioners to the Commissioner of Police. In the first paragraph of this notice, the petitioners have assured the Commissioner of Police that they do not want to impede any investigation which is permitted by the Constitution of India. Upon query of the Court as to whether any investigations are pending against the petitioners, the learned counsel replies that no investigations are pending against the petitioners, but some investigations are pending against the brother of the petitioners.

5] According to us, these are basically civil disputes between the petitioners and the Trust. We are not too satisfied as to the bonafides of instituting this petition by making several allegations and expressing several apprehensions. If all these have to be gone into, then detailed evidence will be necessary. Normally, disputed questions of facts cannot be gone into in the exercise of our extraordinary jurisdiction under Article 226 or 227 of

the Constitution of India. There are ample ordinary remedies available to the Petitioners to redress their grievances and to also determine whether such grievances are real or perceived. In the state of pleadings and the broad-based allegations made by the Petitioners, we do not deem it appropriate to exercise our extraordinary jurisdiction at the behest of the present Petitioners.

6] Since a Civil Suit is already pending, and further, since the allegations made in this petition will involve the disputed question of facts, we do not think it appropriate for us to entertain this petition.

7] Therefore, we dismiss this petition. But at the same time, we make it clear that the dismissal of this petition will not prejudice the petitioners in any manner in pursuing their civil or other remedies before the Courts of law.

8] This petition is dismissed without any order for costs.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

Sumit

Digitally signed by SUMIT CHETAN
AGRAWAL
Signing Date: 22.12.2021 17:36