

AGK

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

WRIT PETITION NO.4938 OF 2021

Surendra Yallappa Gaikwad ... Petitioner
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Surel Shah i/by Mr. Rahul Kasbekar for the petitioner.

Ms. G.P. Mulekar, APP for respondent no.1/State.

Mr. V.V. Purwant with Ms. Kalyani Mangave for respondent no.2.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 15, 2022

P.C.:

1. The petitioner is challenging order dated 26th March 2019 issuing process against the petitioner for offence punishable under sections 323, 324, 327, 147, 506 read with section 149 of the Indian Penal Code, 1860.

2. Based on report lodged by the respondent no.2, Crime No.34 of 2015 was registered against the petitioner for offence punishable under 323, 324, 327, 147, 506 read with section 149 of the IPC. It was alleged that on 22nd February 2015 at about 1.45 p.m. the accused persons along with two (2) unknown persons arrived at the scene of offence and started beating the informant.

It is also alleged that the accused removed golden ring from his finger and cash worth Rs.4,300/- and when Nilesh Jadhav tried to intervene, the accused also beat him.

3. The investigating agency filed B summary report. Respondent no2 filed protest petition. The statement of witnesses and informant has been recorded under section 200 of the Criminal Procedure Code, 1973.

4. Learned Magistrate after considering the material on record rejected B summary report and issued process against the petitioner. The petitioner challenged the order or issuance of process by filing revision application which has been dismissed by the impugned order.

5. It appears that the material on record shows that the statement of Vikram Arun Nandurkar was corroborated by statement of Nilesh Jadhav, Anand Savant as also corroborated by the medical certificate. The learned Magistrate recorded a finding that there was no delay in lodging the first information report.

6. There is material in the form of statements of injury of eye witnesses who witnessed the alleged incidence. Based on the said material, the learned Magistrate issued process against the petitioner which has been confirmed by the learned Sessions Judge. From the impugned order, it appears that the order of issuance of process is based on the material on record. Therefore, there is no perversity.

7. The writ petition is, therefore, dismissed. No costs.

8. It is made clear that the observations made in this order are only for the purposes of testing the validity of order of issuance of process and it shall not influence the Trial Court while deciding the case on merits.

(AMIT BORKAR, J.)