

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

CRIMINAL WRIT PETITION NO.1000 OF 2020

Shri Umesh Jaysing Sawant
Age 39, Occu-Agriculture,
R/o-Sawant Galli, Ta-Jath,
District-Sangli

... Petitioner.

V/s

1. The State of Maharashtra
Through Jath Police Station,
District-Sangli

2. Chandrakant Shankarappa Guddodgi
Age: 40 yrs., Occu.Pathology,
R/o Sidahrath Colony, Jat, and
A/p-Suslad, Tal-Jath, District-Sangli

...Respondents.

.....
Mr Umesh Mankapure, for the Petitioner.

Mr J.P. Yagnik, APP for the State.

....

**CORAM : REVATI MOHITE DERE
& R.N.LADDHA, JJ.**

DATE : 22 November 2022.

ORDER (PER R.N.LADDHA, J) :

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned Counsel for the parties.

3. By this criminal writ petition, under Article 226 of the Constitution of India, r/w Section 482 of the Code of Criminal Procedure, 1973, the Petitioner seeks the quashing of CR No.315 of 2018 dated 8.9.2018, registered with Jat Police Station, Jat, District-Sangli, at the instance of respondent no.2, for the offences punishable under Sections 307, 341, 338, 427, 323 r/w 34 of the Indian Penal Code, 1860.

4. It is the case of the prosecution that on 5.9.2018, the Petitioner, along with two others, assaulted the first informant/Respondent No.2 with sticks and stones on his head.

5. Mr Umesh Mankapure, learned Counsel appearing on behalf of the Petitioner, submitted that the impugned FIR and the charge sheet do not disclose any material which could be held to be constituting any offence against the Petitioner. It is submitted that the alleged incident occurred on 5.9.2018 at about 3.15 a.m., and FIR was registered on 8.9.2018 at about 2.00 a.m. It is submitted that the injured

had a history of falling from the motorcycle on 5.9.2018 at 2.00 a.m. near Kolgeri village. It is submitted that the Complainant/first informant was admitted to the hospital of Dr Gurav and that his relatives and friends were in the hospital to see him on the day of his admission in the Hospital of Dr.Gurav. Still, the first informant had not made any disclosure to them. It is submitted that there is an inordinate unexplained delay in lodging the FIR. It is submitted that the first informant indulged in illegal excavation and transportation of sand. The Tahsildar Jat has, therefore, issued a show cause notice to the first informant seeking his explanation as to why a fine of Rs.3,47,925/- should not be imposed upon him and seize his vehicle bearing No.MH-10-Z-4065. It is submitted that the first informant suspected that the Petitioner and his brother had informed about his illegal business of excavation and transportation of sand to the Tahsildar. It is submitted that the allegations in the impugned FIR against the Petitioner, when read in their entirety and accepted as true, do not make out any case against the Petitioner. It is submitted that the Petitioner's case squarely falls within the exceptions given by the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal, 1992 Supp.(1) SCC 335, and hence, the impugned FIR is bad in law and needs to be quashed.

6. Mr J.P. Yagnik, learned APP contested the contentions of the learned Counsel for the Petitioner. He

submitted that, while exercising the powers under Section 482 of the Cr.P.C. the High Court is not required to enter into and consider the case's merits in detail, which as such, are required to be considered at the time of trial. He submitted that when there are serious triable allegations in the report, it is inappropriate to quash the FIR in exercising the powers inherent in the High Court. He submitted that the Petitioner could not insist that this Court minutely examine the allegations made in the complaint to ascertain whether all the ingredients of the offence are present therein or not. He submitted that even though the inherent powers of this Court u/s 482 of Cr. P.C. to interfere with criminal proceedings are wide, such powers have to be exercised with circumspection and only in exceptional cases. He pointed out that the first informant himself did not give the history in Dr.Gurav's hospital. He submitted that the hospital paper itself showed the head injury with multiple injuries on the body of the first informant.

7. It is settled principle of law that the High Court, in its jurisdiction under Section 482 Cr.P.C., was not expected to call upon to embark upon the inquiry whether the allegations in the FIR and the charge sheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of the allegations. These are matters which can be

examined only by the High Court concerned after the entire material is produced before it on a thorough investigation and evidence is led. All these aspects are highlighted in the case of **Central Bureau of Investigation Vs. K.M. Sharan (2008) 4 SCC 471.**

8. In the present case, the material available on record prima facie indicates that the first informant had sustained multiple injuries on his person. It reveals from the record that Petitioner was named in the FIR. The allegations made in the FIR also appear to be supported by other witnesses. Insofar as the contents in the FIR and the charge sheet are concerned, we prima facie find that Respondent No.2/Informant has spelt out the offending acts of the Petitioner. The allegations made in the FIR and the charge sheet prima facie do constitute a cognizable offence justifying registration of crime, and at this stage, it cannot be concluded that no ingredients of an offence under Sections 307, 341, 338, 427, 323 r/w 34 of the Indian Penal Code, 1860, are present in the instant case.

9. Besides, upon perusal of the categories as enumerated by the Supreme Court in the case of **State of Haryana Vs. Bhajan Lal**¹ it is seen that the case of the Petitioner

1 1992 Supp(1)SCC 335.

does not fall under any of the parameters, warranting quashing of the FIR.

10. Considering the aforesaid, we are of the opinion that no case is made out to quash the impugned FIR. However, we abstain from discussing the statement of the witnesses and the extent of their substantiation of the FIR, as we apprehend that the same may create an unconscious impression in the mind of the learned trial Court. We wish to mention that this order should not be construed as having ruled on the merits of the matter. Consequently, the learned trial Court shall not be influenced by any of the observations made by us in this order.

11. In light of the above, the present petition, being without merit, is accordingly, dismissed.

R.N.LADDHA,J.

REVATI MOHITE DERE,J.