

S.S.Kilaje

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1456 OF 2014

Fulchand Bhanudas Jadhvar

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

-
- Mr. Shriram S. Chaudhari for the Petitioner
 - Ms. M. M. Deshmukh, APP for the Respondent / State
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**CORAM : SMT. SADHANA S. JADHAV &
MILIND N. JADHAV, JJ.**

DATE : APRIL 11, 2022

P.C.:

- 1.** Heard.
- 2.** Rule.
- 3.** Rule made returnable forthwith with the consent of the parties.
- 4.** The present Petition has been filed by the Petitioner i.e.

complainant seeking following prayers which read as under :

“(a) This Hon’ble High Court be pleased to issue appropriate writ, order or directions and transfer the investigation of C.R.No.2/2014 registered at Pangari Police Station from the Respondent No.5 to any other independent Investigating Agency i.e. C.I.D. or C.B.I. as this Hon’ble Court may deem fit and just and further direct to take appropriate legal steps for further investigation in accordance with law.

(b) In alternative to prayer clause (a), this Hon’ble High Court be pleased to issue appropriate writ, order or directions and direct the respondent No.4 to file appropriate application in the appropriate Court for adding Section 307 of the Indian Penal Code.”

5. Heard the learned counsel for the Petitioner.
6. Learned APP had submitted a report which shows that the charge-sheet in Crime No. 2 of 2014 registered at Pangari Police Station, Solapur is filed on 22.06.2014 and at present the case is registered as R.C.C. No. 178 of 2014. The charge-sheet is filed for the offences punishable under Sections 143, 147, 148, 149, 326, 325, 324, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860 ("IPC").
7. The complainant herein happens to be a paternal uncle of the accused. Upon perusal of the F.I.R., it appears that there was a boundary dispute amongst the brothers. It is alleged that the accused herein was not giving the right of way to the complainant and hence according to the complainant, the accused had assaulted him with axe, sticks and stones and the accused Mrudula Hanumant Jadhvar had bitten the complainant on his shoulder.
8. On perusal of the medical papers, it appears that the complainant had sustained one grievous injury in the nature of laceration on the head - frontal region admeasuring 0.5 X 5 cm. One of the family member had sustained simple injuries and a blunt trauma on the head which was not visible externally; that Mrudula Hanumant Jadhvar had sustained three simple injuries; that the

complainant was admitted in Civil Hospital for six days for proper diagnosis and treatment. That on 06.01.2014, the accused were produced before the J.M.F.C., the investigating agency had prayed for Majestrial Custody Remand as *prima facie* offence under Section 324 was registered; that the complainant had made representation to the A.P.I. of Pangari Police Station; that in fact the complainant had sustained serious injuries and an offence under Section 307 of IPC ought to have been registered against the accused. After due investigation the charge-sheet is filed for the offences punishable under Section 326 of the IPC.

9. The complainant has arraigned the Superintendent of Police of Solapur, the Sub Divisional Police Officer at Solapur, the Assistant Police Inspector, Pangari Police Station at Solapur and Police Head Constable Shri. S.H.Mosalgi as Respondents. Respondent No.5 was the Investigating Officer.

10. Upon hearing the learned counsel for the Petitioner, we are of the *prima facie* opinion that no case is made out for transfer of investigation to any other agency, since Charge-sheet is filed.

11. It is seen from the records that the matter was adjourned on 13.03.2022 at the request of the learned counsel for the Petitioner. On

17.03.2022, the Court had directed the Petitioner to place on record the copy of the charge-sheet. The learned counsel for the Petitioner submits that he could not place the copy on record since he does not have the same. The charge-sheet is filed way back in 2014 and the present Petition is filed on 09.04.2014 and the charge-sheet was filed on 22.06.2014. The learned APP has placed on record a report of the P.I. of Pangari Police Station which shows that the matter is due since long for framing of charge. It appears that since the Petition is pending before this Court and the complainant has prolonged the hearing of the matter the Petition deserves to be dismissed in limine. However, in the course of recording evidence, in case documentary evidence is brought on record and substantiated that it would be necessary to frame or alter the charge, Learned Magistrate may frame or alter the charge, if necessary.

12. With these directions the Writ Petition stands dismissed. Rule is accordingly discharged.

[MILIND N. JADHAV, J.]

[SMT. SADHANA S. JADHAV, J.]