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

WRIT PETITION NO.6659 OF 2021

Sheetal Surendra Gaikwad & Ors. ... Petitioners
V/s.
The State of Maharashtra & Ors. ... 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

PC.:

1. The petitioner is challenging order dated 24th February 2020 thereby dismissing revision application of the petitioner filed for challenging order of issuance of process under sections 504 and 506(2) of the Indian Penal Code, 1860.

2. Respondent no.2 (informant) has filed report with the concerned police station with the allegations that on 19th February 2015 the accused had come to her house and abused and threatened her on the count that her brother got bail in C.R. No.40 of 2015. It is alleged that the petitioners had set on fire motorcycle bearing registration No.MH-13-BK-1486 owned by the father of the informant and accordingly offence under sections 435, 504 and

506 read with 34 of the IPC was registered.

3. The police after investigation sent C summary. It is stated in the summary report that the allegations in the report are neither false nor correct. The learned Magistrate after considering the report recorded a finding that there is no sufficient material in relation to the offence under section 435 of the IPC but held that there is sufficient material to proceed under sections 504 and 506(2) of the IPC.

4. On consideration of the material on record, it appears that the learned Magistrate had concluded on the basis of statement of witnesses that the petitioners had set on fire the vehicle in question. The findings arrived by both the Court below are based on the material on record.

5. It will always be open for the petitioners to contest the case made against them by the prosecution during trial. Since the findings recorded by the Courts below are based on the evidence on record, the findings cannot be termed as perverse. There is no miscarriage of justice.

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

7. *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.)

(The order is modified as per order dated 15th December, 2022. The corrections in the order are shown in italics)