

AGK

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

WRIT PETITION NO.847 OF 2022

Anantrao Narayan Thopate ... Petitioner
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr.Saurabh Butala with Mr. Arya Sapre and Mr.
Harshad Bhadbhade for the petitioner.

Mr. A.R. Patil, APP for respondent no.1/State.

Ms. Smita Gaidhani for respondent no.2.

Mr. N.H. Khamgad, API, Rajgad Police Station, is
present.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 22, 2022

P.C.:

1. The challenge in this writ petition is to the order dated 16th December 2019 rejecting the application for discharge the petitioner for offence under sections 354, 323, 143, 147, 504 read with 506 of the Indian Penal Code, 1860.

2. According to the case of the prosecution, the alleged incident occurred at 6.30 p.m. on 17th June 2015. The petitioner came out of his car along with his driver and asked the complainant as to why they were present there. He abused the complainant. He held her hand and offended her modesty by physically holding her.

Other witnesses reiterated the statement made by the complainant but as regards the actual incident, other witnesses stated that the accused held hand of the complainant. The investigating agency after completion of the investigation filed charge-sheet.

3. The petitioner, therefore, filed an application for discharge. The learned Magistrate by order dated 16th December 2019 rejected the application for discharge against which the petitioner filed Criminal Revision Application No.100 of 2020 before the learned Sessions Judge. The learned Sessions Judge by the impugned order dated 8th March 2022 rejected the criminal revision application of the petitioner. Therefore, the petitioner has filed present writ petition challenging order of the revisional Court.

4. The learned revisional Judge observed that the occurrence of incident has not been disputed by the accused nor he has denied his presence at the spot of incident. Though it is admitted that there is civil dispute between the parties, the learned Sessions Judge recorded a finding that there is sufficient material to support the case of the prosecution about occurrence of incident and the presence of the accused at the spot of incident. It is held that absence of intention on the part of the accused to outrage modesty of the complainant is not the sole decisive factor to say that the offence is not committed.

5. With the assistance of the learned advocate for the petitioner, I have perused the statement of the complainant and other witnesses. The complainant has specifically stated that the

petitioner assaulted her with stick and abused her. It is also stated that he held her hand and offended her modesty by physically holding her. The said statement of the complainant has been supported by other witnesses, save and except the portion of physically holding her physically.

6. The question of inconsistency in the statements of witnesses need not be considered at this stage. It is always open for the petitioner to raise all such grounds available to him in law in the trial.

7. On consideration of the material on record, the Court below has rightly concluded that there is no ground to proceed against the accused. There is no error of jurisdiction nor the impugned orders are perverse.

8. The petition is, therefore, dismissed. No costs.

9. Ad-interim relief granted earlier to continue for a period of four (4) weeks from today.

(AMIT BORKAR, J.)