

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2112 OF 2022

Sanjay Ramesh Bhalerao. ... Petitioner.
V/s.
The State of Maharashtra and Ors. ... Respondents.

Mr. Nitin Satpute a/w. Surya Srivastava for the Petitioner.
Mr. Y.M. Nakhwa, APP for the Respondent- State.

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CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATE : 25 July 2022.

P.C. :

Heard the learned counsel for the parties.

2. By this petition, the Petitioner is seeking the following relief:

“(b) This Hon’ble court be pleased to QUASH and SET-A-SIDE, Criminal Proceeding Special Case No.323/2022 arising out of FIR No. C.R.No.149 OF 2021, FOR THE OFFENCE U/S. 354, 354(A), 354(A), 354(D), 506(2), 507, 509 OF IPC AND u/s. 12 of the Protection of Children from Sexual Offences Act 2012 (Hereinafter the Protection of Children from Sexual Offences Act 2012 is referred as the POCSO Act), registered at Dharavi Police Station, Mumbai and chargesheet filed.

3. The Respondent- Complainant, aged 18 years filed an FIR that she knew the Petitioner by face as the Petitioner used to

visit her neighbour and the neighbour had told her about his name. It is alleged that on 11 October 2020, she had gone to the police station to give statement in respect of complaint lodged against some persons. There, the Petitioner made obscene gestures at her. At that time, the Complainant made a written complaint about that. After that the Petitioner from 20 October 2020 to 15 November 2020 was stalking the Complainant and abusing her with obscene language. He was also pressurizing her to withdraw certain complaints. He also accosted her and told her that he has obscene photographs of her which he will circulate on social media. Thereafter she narrated that on 9 March 2021 she had gone to Dharavi Police Station. Again the Petitioner tried to accost her. Thereafter she contacted the advocate and told him about the obscene gestures and stalking by the Petitioner. With these allegations FIR is lodged.

4. The Petitioner has also made a statement before the Magistrate under section 164 of the Code of Criminal Procedure, 1973 wherein she has reiterated the statements made. Chargesheet has been filed.

5. The learned counsel for the Petitioner submits that a police report has been filed wherein depending upon the CC TV footage it is stated that no such incident had happened at the police station. He submitted that while granting anticipatory bail this aspect has been considered. Learned counsel submits that the Petitioner has been falsely involved in this case and there is

absolutely nothing to justify the allegations.

6. The incident narrated by the Complainant is not only at the police station but at different public places as well. The Complainant has reiterated the incidents in her statement under section 164 of Cr.P.C. As regards stalking and making obscene gestures by the Petitioner outside the police station, the same is also stated by the Complainant. The learned APP submitted that there are eight offences registered against the Petitioner, seven at Shahu Nagar Police Station and one at Dharavi Police Station. As regards offence, the learned counsel for the Petitioner submitted that the Petitioner has been acquitted. However, as regards one offence under section 498, the same is continued. Considering the limited scope of proceeding to quash the FIR, we do not find that a case is made out to exercise the same. The Complainant has categorically stated the incident at the police station and the factum of stalking in her statement before the Magistrate under section 164 of Cr.P.C. Reading of the FIR cannot be said that no offence was committed. The arguments advanced before us are defence of the Petitioner to be urged at the time of trial and would require adjudication of evidence which is not the scope of the present proceeding.

7. Writ petition is rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)