

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

CRIMINAL WRIT PETITION NO. 1349 OF 2022

Harsha Ghansham Chugh

...Petitioner

Versus

State of Maharashtra and Anr.

...Respondent

Mr. Sanjay Kulkarni, Advocate for Petitioner.

Mr. S.R. Agarkar, APP for Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th AUGUST, 2022.

P.C. :-

1. The Petitioner has been arraigned as Accused No.2 in R.C.C. No. 623 of 2019 pending before the Competent Court.

2. The First Information Report (for short 'FIR') was registered on 16th February, 2018 vide C.R. No.798 of 2018 for offences under Sections 170, 323 and 504 of Indian Penal Code (for short 'IPC'). On completing investigation charge-sheet was filed.

3. The case of the prosecution is that the first informant is working as Police Sub-Inspector. On 16th March, 2018 at about 7:51 a.m. the first informant had boarded the train at Titwala which was proceedings towards C.S.M.T. While she was travelling through the first class reserved for women some women commuter

boarded the train at Shahad railway Station. Two of them made inquiry with the first informant about railway pass. She countered them about their identity. They disclosed their identity as ticket checker. They were requested to produce their identity card. They could not produce it. Both of them picked up quarrel with first informant. She was assaulted and abused. The first informant took them to C.S.M.T. railway station. They disclosed their names to Police. FIR was registered. On completing investigation charge-sheet was filed.

4. The Petitioner preferred an application for discharge before the trial Court. The prosecution opposed the said application by filing say. The learned J.M.F.C., Railway Court, Kalyan vide order dated 29th June, 2021 rejected the said application.

5. The Petitioner challenged the said order by preferring Criminal Revision Application No.64 of 2021. The revision application was rejected by learned Additional Sessions Judge, Kalyan vide order dated 7th March, 2022.

6. Learned Advocate for the Petitioner submitted that the Petitioner has been falsely implicated in this case. The version of

the first informant is not corroborated by any other evidence. The Courts below has committed error in declining to discharge the Petitioner. The offences are not made out against the Petitioner. Accept bare statement of the complainant there is no other evidence to support her version. There are no witnesses to the incident. There is no ticket or railway pass on record. In the entire charge-sheet except the statement of the complainant no evidence is collected by Police. The incident took place at Titwala and the Accused were taken to C.S.M.T. station which speaks volumes of doubt about the prosecution case. There are no independent witnesses to the incident. The Petitioner is not having any criminal antecedents.

7. Learned Advocate has relied upon the following decisions ;

i. Union of India V/s Prafulla Kumar Samal And Another, (1979) 3 SCC 4

ii. Bhupesh Prakashchand Gupta V/s. The State of Maharashtra, decided by the High Court of Bombay in Criminal Revision Application No.449 of 2017, dated 10th October, 2017.

8. Learned APP submitted that the version of the first informant cannot be discarded at this stage. Specific overtact has been attributed to the Petitioner. *Prima facie* case is made out against the Petitioner. The Courts has below rightly rejected the application for discharge.

9. The FIR dated 16th February, 2018 attributes overtact to the Petitioner. The first informant is the Police Sub-Inspector. It is alleged that the Accused represented themselves to be ticket checkers and demanded ticket from complainant. They picked up quarrel with her. She was assaulted and abused by them. At this stage it is difficult to discard the version of the complainant. The submission advanced by the learned counsel for the Petitioner cannot be accepted. The trial Court has rejected the application. The trial Court noted that the statement of the first informant appears at this juncture to be strong material to frame charge against the Accused. The learned Sessions Judge vide its order dated 7th March, 2022 observed that in the statement of informant it is clearly stated that the Petitioner had misrepresented herself and assaulted the informant. There is sufficient evidence against the Accused. It is not possible to wipe out the statement of the first informant at this stage. The decisions relied upon by the Petitioner

are of no assistance to discharge the Accused. No case is made out to interfere in the orders passed by the learned Magistrate and Session Court.

10. Hence, I pass the following order;

ORDER

. Criminal Writ Petition No.1349 of 2022 is rejected and stands disposed off.

[PRAKASH D. NAIK, J.]