

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2485 OF 2019

Prakash Manilal Thakkar

...Petitioner

Versus

The State of Maharashtra & Anr

...Respondents

- Mr. Heet Patel h/f V. K. Dubey Asso for the Petitioner.
- Ms. M. M. Deshmukh, APP, for the Respondent – State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ

DATE : SEPTEMBER 26, 2022

PER COURT :

1. Perusal of the record shows that the Petition was listed before this Court on 26th November, 2021 on an urgent circulation. This Court on 26th November, 2021 passed following order:

. The Petition is urgently circulated. When called out, request for adjournment is made.

2. Stand over to 11 January 2022.

2. Today Mr. Heet Patel holding for V. K. Dubey for Petitioner submitted that the Petitioner approached them and requested for handing over the case papers.

Accordingly, they handed over the case papers to the Petitioner as such, they are unable to make any submissions before this Court.

3. Perusal of the Petition shows that the Petitioner submitted complaints to Charkop Police Station on 28th December, 2018 and to Kandivali Police Station on 22nd April, 2019 and on the same day Petitioner submitted complaint to Deputy Commissioner of Police, Zone 11, Borivali Division, Borivali and to Additional Commissioner of Police, North Region, Kandivali East. Interestingly, by prayer clause (a) Petitioner is seeking direction to Commissioner of Police, Mumbai City or to the Senior Inspector of Police, Samta Nagar Police Station, Mumbai for inquiry, investigation and registration of FIR.

4. Perusal of the material placed on record further shows that there is a case pending against the Petitioner himself for the offence punishable under Section 138 of Negotiable Instruments Act. The said case is pending before learned Metropolitan Magistrate, 43rd Court, Borivali. When the Petitioner on one hand submitted before this Court that there is a case

pending against him before learned Metropolitan Magistrate, 43rd Court, Borivali vide case no. 5712/SS/2018, and on the other made following prayers in the Petition:

(b) That this Hon'ble Court be pleased to direct the respondent nos. 2 to 16 to handover the said cheques illegally extorted and lying with them which were forcefully taken from the petitioner and if same is not been done, this Hon'ble Court be pleased to direct respondent no. 1 to register F.I.R. and take recovery of the same from respondent nos. 2 to 16.

(c) That this Hon'ble Court be pleased to direct respondent nos. 3,4,7,8,9,10,11,12,13,14,15,16 not to initiate any legal proceedings against petitioner by misusing the above-mentioned cheques illegally extorted by them and even if initiated, this Hon'ble Court be pleased to direct the concern authority / forum to set aside the said proceedings.

(d) That this Hon'ble Court be pleased to direct respondent nos. 2 & 4 to handover the possession of Cars / Vehicles and furniture of the petitioner as per above list, which is currently lying with them and taken by them from wife of petitioner by cheating and concealing the correct facts.

(e) That this Hon'ble Court be pleased to direct the respondent no. 5 to handover possession of Audi Car bearing no. MH 04-FU-8055 of the petitioner, or to make a full payment of Rs. 17,50,000/- of it and/or further direct respondent no. 1 to register the F.I.R. and take the custody of

same from respondent no. 5 and handover the same to the petitioner.

(f) That this Hon'ble court be pleased to direct respondent no. 4 to handover the possession of 2 cars viz. Toyota – Altis Car bearing no. MH-04-DR-5942 & Audi Car bearing No. DN-09-E-1563 belonging to the petitioner which are illegally and wrongfully taken in custody by him and if same is not done, this Hon'ble Court be pleased to direct respondent no. 1 to register the F.I.R. and take the custody of same from respondent no. 4.

(g) That this Hon'ble Court be pleased to direct the Hon'ble Metropolitan Magistrate, 43rd Court, Borivali to stay the proceedings U/s. 138 of Negotiable of Instruments Act, vide Case No. 5712/SS/2018, initiated by the respondent no. 7 against petitioner by misusing and illegally extorting the cheque of the petitioner.

5. On the backdrop of the above referred facts, the only inference which can be drawn is that the Petition is not bonafide as the same is filed after filing of the case by the Respondent No. 7 against the Petitioner for the offence punishable under Section 138 of Negotiable Instruments Act. There appears to be some commercial dispute between the parties, which the Petitioner is trying to convert into criminal offence.

6. In view of the above referred facts, we see no reason to entertain the Petition. Thus, Petition is

devoid of any merit, deserved to be dismissed.
Accordingly, Writ Petition is dismissed.

(N. R. BORKAR, J.)

(PRASANNA B. VARALE, J.)