

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3150 OF 2021

Nilesh Dattatray Deshmukh
& Others.

..Petitioners.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Vishal Kolekar i/b Randhir A. Kale for the Petitioners.
Mrs. A. S. Pai, PP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

Date : **January 7, 2022.**
[Through video conferencing.]

P. C. :

1. Heard learned counsel appearing on behalf of the Petitioners. The Petitioners are approaching this court seeking quashment of the first information report (FIR) bearing Crime No.182 of 2020 registered at Nhava-Sheva Police Station, district Raigad for commission of the offences punishable under sections 384, 387, 323 and 504 read with 34 of the Indian Penal Code, 1860 on a sole ground that Respondent No. 2, at whose instance the subject FIR was lodged is a consenting party for quashment of report.

2. Vide the order dated 27th September 2021, time was granted to learned APP. Today, learned Public Prosecutor Mrs. A. S. Pai

invited our attention to a report submitted to the office of Public Prosecutor. Though the submission of Petitioners on the backdrop of a consent by Respondent No.2 for the quashment of FIR looks attractive at first blush, on going through report submitted for our perusal, we are of the clear opinion that this is not the case wherein this court would exercise its extra-ordinary power or exercise the powers under section 482 of the Code of Criminal Procedure, 1973 as to quash the FIR. The report submitted by police shows that Petitioner no.1 - Nilesh Dattatraya Deshmukh is having as many as 21 antecedents of registration of offences against him in the span of more than 15 years, i.e., from the year 2002 to 2019. The range of offences is also wide so as to say, from minor offences to major and serious offences, i.e., offences under the MCOC Act and POCSO Act are alleged to have been committed by Petitioner No.1. There is an offence registered against Petitioner No.1 In the year 2017, for commission of the offence punishable under sections 399 and 402 of the Indian Penal Code, 1860 and sections 3 and 25 of the Arms Act, 1959.

3. The police report also indicates that Petitioner No.1 is an absconding accused. It is stated that Petitioner No.1 filed an application seeking anticipatory bail application; that application was rejected. Since thereafter Petitioner No.1 is successful in avoiding the arrest as such he

is absconding accused.

4. The police report also refers to very important fact in clause 9 wherein it is stated that Petitioner No.1 and his associates exercised pressure on informant so as to file an affidavit before the Court of Sessions, Panvel stating that the first informant is having no grievance against Petitioner No.1; subsequently, when the statement of first informant was recorded under section 164 of the Code of Criminal Procedure, 1973, it was revealed that pressure was applied on the first informant. The police report also states that local residents are not coming forward against the Petitioners due to their antecedents. It is also stated in the report that there is sufficient evidence against these petitioners not only in the form of statement of witnesses but in the form of CCTV footage also. The investigation against Petitioner Nos. 2, 3 and 4 is complete, the charge-sheet is filed against them in competent Court on 1st October 2021.

5. Notably, apart from the present offence, another offence under the provisions of NDPS Act is registered against Petitioner No.3– Niku Darpan Talwar, i.e., Crime No. 174 of 2020. The police report indicates that Petitioner No.3 is an habitual offender.

6. Considering the aforesaid police report, wherein a serious objection is recorded by the Respondent-State on the basis of sufficient material, we are of the opinion that this is not a fit case to exercise our jurisdiction in favour of the Petitioners. This being the position, petition is dismissed.

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]