

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

CRIMINAL WRIT PETITION NO. 2259 OF 2022

Kalpana Rajendra Shetti

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Viqar Rajguru a/w Ms. Khushboo Kazi i/b SA Legal Advocates & Associates for the Petitioner

Mrs. M. M. Deshmukh, A.P.P for the Respondents–State

PSI Mr. D. B. Yedge from Dongri Police Station, Mumbai, is present in Court

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
FRIDAY, 19th AUGUST 2022***

P.C. :

1 By this petition, the petitioner seeks -

- (a) a direction to the respondent Nos. 1 to 4 to correct the statement of the FIR and to add Sections 354, 354B, 376 r/w

511 and 509 of the Indian Penal Code in C.R. No. 393/2022 registered with the Dongri Police Station;

- (b) transfer of investigation from Dongri Police Station to the Detection Crime Branch, CID, Mumbai;
- (c) to direct registration of criminal offences against the police officials of Dongri Police Station, for their illegal and highhanded actions;
- (d) to grant police protection to the petitioner;
- (e) to direct the respondent No. 1 to pay compensation of Rs. 5,00,000/- to the petitioner; and
- (f) direction to the respondent Nos. 1 to 4 to file an appropriate application seeking cancellation of the bail granted to the accused in the said C.R.

2 Pursuant to the grievance made by the learned counsel for the petitioner that there is a CCTV footage to show that the police officials of Dongri Police Station, illegally and highhandedly, brutally assaulted the petitioner's minor son, this Court, vide order dated 12th

July 2022 asked the learned counsel for the petitioner to hand over the pen-drive to the Deputy Commissioner of Police, Zone-I, to enable him to go through the same and submit his report.

3 Pursuant thereto, a report dated 18th August 2022 has been submitted in a sealed envelope. Perused the same. From the said report, it appears that there was a quarrel between the two groups. It appears that when the police intervened in the said quarrel, having regard to the ruckus that had taken place and in order to prevent the situation from worsening, the police, in order to disburse the crowd resorted to *lathi* charge. It is further mentioned in the said report that the petitioner's statement was also recorded, in which, the petitioner has stated that she has no grievance against the police of Dongri Police Station and that her grievance was only against the persons who had assaulted her and her son-Prem i.e. Rajesh Waghela, Sampat Waghela, Raja Shaikh, Nanda Waghela, Shazia Shaikh and others. The statement of the petitioner dated 11th August 2022 is annexed to the said report. The said statement is signed by the petitioner, in which, she has stated

that she has no grievance against the police but only as against the accused. The said report along with the statement of the petitioner is resealed.

4 Learned A.P.P. informs that the police have, during the course of investigation, added Sections 354 and 509 of the Indian Penal Code, to the aforesaid C.R. in addition to Sections 324, 323, 504, 506, 143, 147 and 148. She assures that after proper investigation, appropriate report will be filed against the accused.

5 In view of the aforesaid, nothing survives for consideration in prayer clause (a) which seeks addition of Sections 354, 354B, 376 r/w 511 and 509 of the Indian Penal Code. We may note that *prima facie*, from a perusal of the FIR, it does not appear to be a case of attempt to rape.

6 As far as prayer clause (b) is concerned, having regard to the statement of the petitioner recorded as stated aforesaid, the

question of now transferring the investigation to Detection Crime Branch, CID, Mumbai, does not arise.

7 As far as prayer clause (c) is concerned, which seeks registration of offence against police officials of Dongri Police Station, for their illegal and highhanded actions, having regard to the petitioner's statement as stated aforesaid, the said prayer does not survive nor does the prayer (e), which seeks compensation to the petitioner.

8 As far as grant of police protection to the petitioner is concerned, it is always open for the petitioner to file an appropriate application before the appropriate authority. If such an application is filed, the said authority shall decide the same on its own merits in accordance with law.

9 As far as prayer clause (f) is concerned, learned counsel for the petitioner does not press the said prayer clause.

10 Accordingly, petition stands disposed of on the aforesaid terms.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.