

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

WRIT PETITION NO.2620 OF 2022

Mohammed Irshad Dawood Shaikh Petitioner

Vs.

The State of Maharashtra & Ors. Respondents

Mr. Viral Rathod i/b Ms. Saima A. Sathe a/w. Mr. A. A. Sathe for
the Petitioner.

Mr. A. R. Kapadnis, APP for Respondent-State.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 18th AUGUST 2022.

P. C.

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks registration of an FIR, as against 8 persons, for the offences punishable under the Indian Penal Code.
3. Learned APP states that pursuant to the complaint lodged by the petitioner on 26/4/2022, with respect to the incident

dated 25/4/2022, the police have registered an FIR as against the two persons named in the FIR. He submits that as far as names of other persons are concerned, it has transpired during investigation that the said names have been taken by the petitioner (original complainant), after 10 days of the incident. Learned APP further submits that there are independent witnesses who do not support the allegations made by the petitioner with respect to the involvement of other persons against whom registration of FIR is sought.

4. It appears that an incident had taken place on 25/4/2022 at 1.00 p.m. According to the petitioner, again at 4.56 p.m., a second incident had taken place. The grievance of the petitioner, is that with respect to the second incident i.e. of 4.56 p.m., FIR has not been registered. Both the incidents, according to the petitioner took place on 25/4/2022, whereas, the FIR was lodged on 26/4/2022 i.e. on the next date. A perusal of the FIR shows that the petitioner has not mentioned the second incident which according to him took place at 4.56 p.m. in the complaint.

5. Be that as it may, we do not wish to further delve into

the merits. Suffice to state that C. R. has been registered, as against the two persons named in the FIR. We are informed that charge-sheet will be filed in the said case within 3-4 weeks.

6. Considering the aforesaid no further directions are required to be given in the aforesaid petition. The petition is accordingly dismissed.

7. During the course of hearing, the learned APP noticed that the petitioner's brother-Abdul Rehman Haji Dawood Shaikh was recording the court proceedings on his mobile phone. Learned APP brought the said fact to the Court's notice. Upon questioning the petitioner's brother- Abdul Rehman Haji Dawood Shaikh, whether the same was true, the Petitioner's brother denied, recording the Court proceedings. Accordingly, we directed the petitioner's brother- Abdul Rehman Haji Dawood Shaikh to hand over his mobile phone to the Court Sheristedar to verify whether the Court proceedings were being recorded by him on his mobile phone. We noticed that before handing over the said mobile, the petitioner's brother was attempting/deleting something. Upon further questioning by the Court, the petitioner's brother informed

the Court that he was not deleting the recording, but he had received a phone call which he was disconnecting. After the mobile phone was handed over to the Court Sheristadar, the Court Sheristadar checked the same, and informed us that the clip recorded by the Petitioner's brother has been deleted, as can be seen from the 'recently deleted' list on the mobile phone. The said audio recording was thereafter retrieved. Accordingly, we directed the Court Sheristadar to confiscate the phone and keep it in safe custody. The phone so confiscated, to be handed over by the Court Sheristadar to the Registrar (Judicial-I), High Court, Mumbai to be kept in safe custody until further orders.

8. Considering the aforesaid, we deem it fit to impose costs of Rs.25,000/- on the Petitioner's brother-Abdul Rehman Haji Dawood Shaikh for recording the proceedings. The said cost to be paid to the Kirtikar Law Library, High Court, Mumbai, within a period of two weeks from today.

9. Having regard to the conduct of the petitioner's brother-Abdul Rehman Haji Dawood Shaikh in recording the Court proceedings and making false statements before the Court, we deem it appropriate to issue notice to Abdul Rehman Haji

Dawood Shaikh having his address at 35, Salim House, Military Road, Andheri (E), Mumbai-59 under the provisions of Chapter XXXIV of the Bombay High Court Appellate Side Rules 1960 as to why contempt action should not be initiated against him. The said notice be made returnable on 8/9/2022.

SHARMILA U. DESHMUKH, J. REVATI MOHITE DERE, J.