

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

WRIT PETITION NO. 989 OF 2021

Sunny Ratan Chinoy

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

- Mr. Aashuutosh Srivastava & Mr. Dhanraj Ladha, Advocate for the Petitioner.
- Mr. V. B. Konde - Deshmukh, APP, for the Respondent - State.
- Mr. V. J. Dhumal, PSI, Tardeo Police Station present.

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

DATE : SEPTEMBER 28, 2022.

P. C. :

1. Not on board, upon mentioning taken on production board, in view of the submission that the present petition would become infructuous as the matter before the Trial Court i.e. the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai is today fixed for final argument.

2. By way of the present petition, the petitioner challenges the order passed by the learned Additional Sessions Judge, in Criminal Revision Application No. 1202 of 2018 dated 27th January, 2020. The perusal of record shows that the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, framed charges on 24th August, 2012 against two accused persons, namely, Abbas

Johan Tinwala and Kuleshwar Pradyuban Singh for commission of offences punishable under sections 325, 323, 504 r/w 34 of the Indian Penal Code and then recorded the evidence of few witnesses.

3. It further reveals that an application was thereafter filed at the instance of State under section 319 of the Code of Criminal Procedure, for adding three persons, namely, Pradyuban Singh, Kailas Vitthal Salve and Rambhvan Ramkilvan Ravat as accused persons. Learned Additional Chief Metropolitan Magistrate, rejected the application by observing in paragraph no. 3 of the order that there is no sufficient evidence on record to add proposed accused persons as accused, in this case and to prosecute them for the offence punishable under sections 342 and 109 of the Indian Penal Code.

4. It seems that being aggrieved by said order dated 26th October, 2018, the Revision Application was filed at the instance of petitioner Sunny Ratan Chinoy before the Sessions Court.

5. Learned Additional Sessions Judge by reasoned order rejected the Revision filed by the petitioner. It may not be out of place to state that in paragraph no. 7 of the order, learned Additional Sessions judge referred to certain factual aspects including an oral evidence of PW-1 - Complainant - Shri. Sunny and PW-2- Shri. Joy. On considering the material, learned Additional Sessions Judge in clear

and unambiguous words observed that admittedly, in the F.I.R. lodged by the PW-1 Shri. Sunny Ratan Chinoy, there is no allegation that they were caught hold and restrained by any of the proposed accused persons. Learned Additional Judge further observed that it is only contended that the administration of the Racecourse had issued notice to the PW-1 and in reply to that notice, he had given letter and in that letter, he had mentioned the said fact. Then, by considering the material, learned Additional Sessions Judge observed that with lawful object, the proposed accused persons had asked the Watchmen to apprehend PW-1 and PW-2 and, therefore, it cannot be said that there was wrongful restraint or wrongful confinement of the PW-1 and PW-2 by any of the proposed accused persons.

6. Learned APP, on instructions, submitted before this Court that the matter is listed before the learned Trial Court i.e. the Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai for final arguments at 2.45 p.m. Copy of the daily status is also submitted for perusal of this Court, the same is taken on record and mark "X" for identification.

7. The incident appears to be of 05th February, 2012. It appears that in the FIR no allegations were made against the proposed accused. The Trial Court after examining the evidence on rejected the application. The Revisional Court has confirmed the said

finding. Considering all these facts, we are not inclined to interfere in the order impugned in the writ jurisdiction. The petition is accordingly, dismissed.

11. All concerned shall act upon a copy of this order duly authenticated by the Registry of this Court.

(N. R. BORKAR, J.)

(PRASANNA B. VARALE, J.)