

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

WRIT PETITION NO.3577 OF 2021

Makkhan Singh Ajit Singh Kalyani .. Petitioner.
v/s.
State of Maharashtra
& Others .. Respondents.

Ms. Harjeet Kaur Bhagwant Singh, for the Petitioner.
Mr. K. V. Saste, APP for the Respondent No.1-State.

**CORAM: NITIN JAMDAR &
ARUN R. PEDNEKER, JJ.**
DATE : 19th JULY, 2022.

P.C:-

The Petitioner is aggrieved for being arrayed as an accused in the supplementary charge-sheet filed before the Judicial Magistrate First Class for the offences punishable primarily under Section 302 read with Section 149 of the Indian Penal Code and has filed the present Petition to quash the same.

2 The brief facts reflected from the record filed with the Petition, are as under:-

FIR No.760 of 2020 was registered with the Wanwadi Police Station, Pune on 24th July, 2020 for assault of one Mr. Pavitrasingh Gabbar Singh, under Section 307 read with Section 149 of the IPC. After the demise of the victim, Section 302 of the IPC was added to the FIR. In a supplementary charge-sheet filed in the case, the

Petitioner is arrayed as an accused for the offences under Section 302 read with Section 149 of the IPC.

3 The Petitioner before us contends that the charge-sheet should be quashed on the following grounds:-

- (i) The Petitioner is made accused only in the supplementary charge-sheet and that the investigating agency had earlier submitted report under Section 169 of the Cr. P. C.
- (ii) The statement recorded under Section 164 of the Cr. P. C. of one of the eye witness did not mention name of the Petitioner and the said statement is not part of the charge-sheet.
- (iii) There is no recovery of assault weapon at the instance of the Petitioner.

4 Perusal of the charge-sheet shows that the Petitioner is named as one of the assailants in the FIR registered at the instance of an eye witnesses. The complainant's statement is also recorded under Section 164 of the Cr. P. C wherein he has named the Petitioner as one of the assailants.

5 We are dealing with the Petition for quashing of a charge-sheet and we are not considering the correctness of the evidence filed along with charge-sheet. The power to quash charge-sheet has to be sparingly used to prevent the abuse of the process of law and not a legitimate prosecution. The contentions raised by the Petitioner is not germane to the Petition for quashing of the charge-sheet.

6 We thus reject the present Petition.

7 However, dismissal of his Petition would not come in
the way of availing any other remedy as may be available in
law.

(ARUN R. PEDNEKER,J.)

(NITIN JAMDAR,J.)