

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 887 OF 2021

Amol Dattatray Sawant.

...Applicant.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Nikhil Wadikar and Faiza Shaikh i/b Nandu Pawar for the Applicant.

Mr. J. P. Yagnik, APP for the Respondent – State.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : April 4, 2022.

P. C. :

1. The Applicant is before this Court seeking quashment of the first information report (FIR) bearing Crime No.937 of 2021 registered at Borivali Police Station on 3rd August 2021 on the allegation of commission of offence punishable under sections 352, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. Learned counsel for the Petitioner vehemently submitted that the FIR in question is nothing but an act of impossibility and further submitted that the necessary material is not collected by the investigating agency.

3. Perused the FIR. The perusal of FIR shows that incident in question took place on 3rd August 2021; the informant – complainant has given all the necessary details, namely, the acts committed by the

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accused persons including an assault by the accused persons and an attempt made by the sister of complainant; in that process, the sister of complainant as well as complainant receiving certain injuries. The FIR further refers to the medical treatment immediately provided to the complainant and his sister.

5. Learned counsel submitted that the FIR states about complainant suffering fracture to his right hand and also that the complainant has signed the report by his right hand. Thus, the submission is if the complainant had suffered a fracture, it was impossible for complainant – informant to sign the document. To accept this statement as a gospel truth, neither the Petitioner nor this Court possess the medical expertise, nor can sit as an appellate authority over the opinion expressed by the medical professional. Thus, on the first count we are unable to accept the submission of learned counsel of Applicant for quashing the FIR.

6. The second count is non collection of material. Now, the FIR was lodged in the month of August 2021. The present application was filed in the month of September 2021 and is placed before this Court today. By this time, the investigating agency must have collected the relevant material in the course of investigation. As such, at this stage recording any opinion or forming any opinion insofar as the collection of

material by the investigating agency would be far fetched.

7. It may not be out of place to state here that the law in respect of quashing FIR is sufficiently made clear by the catena of decisions of this Court as well as the decision of the Hon'ble Apex Court. We cannot loose sight of very often quoted decision of the Apex Court in the matter of State Of Haryana vs Ch. Bhajan Lal [1992 AIR 604] wherein guidelines with regard to exercise of powers by this Court under section 482 of the Code of Criminal Procedure, 1973 are discussed and the categories carved out. In our opinion, the case of Applicant would not fall in any of those categories laid down in the case of *Bhajan Lal supra*.

8. Considering all these aspects, we are of the opinion that the present application is devoid of merit and as such deserves to be dismissed at the threshold. Accordingly, the application is dismissed.

9. We further make it clear that our observations hereinabove are *prima facie* observations made for the limited purpose of considering the prayer for quashment of FIR and trial Court shall not be influenced by the same.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]