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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4409 OF 2021**

Jagannath S. Swami
V/s.
State of Maharashtra

... Petitioner

... Respondent

Mr.Akshay Topiwala a/w. Mr. Abdeali Kothawala i/b Mr. Avinash S.
Ovhal for the Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1 – State.

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 11 JULY 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.300 of 2021 (hereinafter referred to as “FIR”, for short) dated 31 July 2021 registered at Junnar Police Station against the Petitioner for the offences punishable under Sections 353, 186, 188, 269 read with 34 of the Indian Penal Code, 1860 (I.P.C.).

2. It is the case of the prosecution that on the date of incident, which took place on 31 July 2021, the Complainant and other police personnel who were working with Junnar Police Station were assigned duty to take action against those who will be found

violating the restrictions imposed by the competent authority in the wake of Covid-19 pandemic. According to the prosecution, on the date of incident, at about 3:00 p.m., when the Complainant and other police personnel were discharging their duties at Naneghat tourist place and were taking action against those who were found to be violating the restrictions, the Petitioner and other co-accused prevented them from discharging their duties by using criminal force.

3. We have heard the learned counsel for the Petitioner and the learned APP for the Respondent/ State.

4. The learned counsel for the Petitioner submits that the entire allegations in relation to the alleged incident are against the co-accused Snehal Todkar and Nilesh Gaikwad. It is submitted that the Petitioner is a taxi driver and on the day of incident, the passengers who were travelling in his taxi told him to stop the taxi at the place of incident. It is submitted that no overt act is attributed to the present Petitioner in the entire alleged incident. The learned counsel for the Petitioner submits that in the above circumstances continuation of prosecution in question against the Petitioner would be abuse of process of law. It is submitted that the FIR thus needs to be quashed and set aside.

4. On the other hand, learned APP submits that the Petitioner along with other co-accused had made baseless allegations against the Complainant and other police personnel who were discharging their duties and were taking action against those who were violating the restrictions imposed in the wake of Covid-19 pandemic by the competent authority. It is submitted that the accused shouted at the Complainant and other police personnel that they have no authority to take action and even threatened them. It is submitted that considering the facts and circumstances, no case is made out to exercise extraordinary jurisdiction and to quash the FIR against the Petitioner.

5. We have perused the FIR. The entire allegations are against the co-accused Sneha Todkar and Nilesh Gaikwad. The only allegation against the present Petitioner is that at the time of alleged incident, he was present at the place of incident with co-accused Sneha Todkar. It is not alleged that the present Petitioner either assaulted the Complainant and other police personnel or used criminal force to prevent them from discharging their official duties. No specific overt act is attributed to the present Petitioner. In the circumstances, continuing the prosecution in question against the Petitioner would be abuse of process of law. In the result, the following order is passed.

ORDER

- a] Writ Petition is allowed.
- b] First Information Report No. 300 of 2021 dated 31 July 2021 registered at Junnar Police Station for the offences punishable under Sections 353, 186, 188, 269 read with 34 of I.P.C. *qua* the Petitioner - Jagannath S. Swami is quashed and set aside.
- c] The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)