

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 63 OF 2023

1. Sachin Ramesh Shinde
2. Malhar Dattatray Inamdar ...Petitioners

Versus

The State of Maharashtra ...Respondent

Mr. S. S. Gangakhedkar, Advocate for the Petitioner.
Mr. S. W. Munde, Advocate for Respondent.

CORAM : R.M. JOSHI, J.

DATE : OCTOBER 19, 2023

PER COURT:

1. This Petition is filed under Article 227 of the Constitution of India takes exception to the order dated 27.01.2020 passed by learned JMFC, Purna on application below Exh. 5 in RCC No. 106/2017 and the order passed by learned Sessions Judge, Parbhani in Criminal Revision Petition No. 62/2020.

2. The facts which led to the filing of the present Petition can be narrated, in nutshell, as under:

Informant had lodged FIR bearing Crime No. 31/2015 against the Petitioners. After completion of

investigation, police filed charge-sheet and the same is registered as RCC no. 106/2017. Petitioners filed application below Exh. 15 seeking discharge. By order dated 27.01.2020 the said application for discharge was rejected. Petitioners were unsuccessful in their challenge to the said order before Revisional Court.

3. Learned Counsel for the Petitioners submits that here is the case wherein a person who is allegedly abducted did not return home for a long period and after staying at various places, on 11.08.2015 he came back to concerned police station. It is submitted that a false report was lodged by wife of the victim. Learned Counsel for the Petitioners submits that statement of victim more than sufficiently demonstrate that no offence of abduction is made out against present Petitioners. In support of his submissions, he relied on judgment of Hon'ble Apex Court in case of State of Maharashtra and Others Vs. Som Nath Thapa and Others, (1996) 4 SCC 659.

4. Learned APP opposed the Petition by submitting that even if the statement of the victim is accepted as it is, the offence under Section 362 for Abduction

is made out.

5. For the purpose of deciding an application for discharge, the Court has to see as to whether there is material available on record sufficient in order to proceed against the accused persons. In the instant case, even if the contention of the Petitioners is accepted that victim Datta recorded his statement on 11.08.2015 to the effect that on his own he stayed at various places and finally on 11.08.2015 appeared before concerned police station, the other allegations made in the statement make out *prima facie* case of abduction against Petitioners. The said statement clearly shows that on 06.04.2015 accused persons came and forcibly took him on motorcycle. He was taken to the office of financial company and was confined there for two days. It is alleged that they assaulted and threatened him. It is his contention that somehow he escaped from their clutches and thereafter stayed at various places.

6. Section 362 IPC defines 'Abduction' as "whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to

abduct that person". Thus, definition of abduction clearly shows that offence of abduction is complete the moment by use of force someone is taken to any place. The statement of the victim if goes uncontroverted is sufficient to prove that he was abducted by the accused persons. Thus, learned trial Court as well as learned Revisional Court were fully justified in rejecting application for discharge.

7. Having regard to these facts, Petitioners failed to make out case. Hence, Petition stands dismissed.

(R.M. JOSHI, J.)

Malani