

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.770 OF 2020

Dr. Vijay S/o Annasaheb Makasare,
Age 35 yrs, Occ. Medical Practitioner/
Business, R/o. Valan, Tq. Rahuri,
Dist. Ahmednagar.

**...Applicant
(Orig. Accused)**

Versus

1. The State of Maharashtra,
Through Police Station Incharge
Shrirampur City Police Station,
Tq. Shrirampur, Dist. Ahmednagar.
2. Richard S/o Raghuveer Gaikwad,
Age 37 years, Occ. Service,
Working as Head Constable B.No. 1416,
Shrirampur City Police Station,
Tq. Shrirampur, Dist. Ahmednagar.
At/p. Working in Shirdi Traffic Police
Branch, Shirdi, Tq. Rahata,
Dist. Ahmednagar.
3. Police Inspector,
Anti Corruption Bureau,
Ahmednagar, Dist. Ahmednagar.

...Respondents

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Mr. D.R. Markad, Advocate for the Applicant.
Mr. A.R. Kale, APP, for the Respondent – State.

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**CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ**

DATE : JANUARY 03, 2023

PER COURT :

1. With the consent of learned Counsel appearing
for respective parties, matter is heard finally at the

stage of admission.

2. This is an application under Section 482 of Cr.P.C for quashing FIR No. 484 of 2019 dated 10.07.2019 registered at Shrirampur City Police Station for offences punishable under Sections 353, 332, 368, 283, 188 of the Indian Penal Code and consequential charge-sheet registered as R.C.C. No. 139/2020 filed before learned JMFC, Shrirampur.

3. We have perused the record and considered the submissions advanced by learned Counsel appearing for respective parties.

4. The aforesaid crime against the applicant was registered pursuant to the FIR dated 10.07.2019 lodged by Gaikwad, Police Constable at Shrirampur City Police Station. It is alleged that on 10.07.2019 at about 04.15 pm while the complainant - Gaikwad was on the duty at the Shrirampur City Police Station, he was informed by PI Bahirat that a fortuner car parked on the road was caused obstruction and he was instructed to bring the said vehicle to the police station. The complainant told to applicant, the owner of fortuner

car bearing no. MH15-CT-9444, to take the vehicle to the police station. It is alleged that instead of taking the vehicle to the police station, applicant took the vehicle towards Belapur road. Upon being informed, PI Bahirat and Kishor Jadhav followed the vehicle. They stopped the vehicle and rescued the complainant. The complaint came to be filed against the applicant for using criminal force with an intention of preventing the complainant from discharging his official duty.

5. The records particularly the report submitted by PI of Anti Corruption Bureau (ACB) indicates that on the same day i.e., on 10.07.2019 the applicant had lodged a complaint against one of the constables of Shrirampur City Police Station before Anti Corruption Bureau, Ahmednagar. The applicant herein was called to A.C.B. Office and after complying with all the procedural requirements, the complainant as well as the panch witness were sent for verification of demand. The complainant and the panch witness left the A.C.B. Office at about 02.15 pm. At about 02.40 pm the applicant as well as the panch witness Shri Vidhye

phoned A.C.B. Office and informed them that the complainant Gaikwad had got in the vehicle and was assaulting and threatening the applicant. The applicant and Shri Vidhye also told the officer of A.C.B. that the said police constable was refusing to get down from the vehicle. The A.C.B. officers told Shri Vidhye to stop the vehicle near the Vrindavan Garden at Belapur road. They proceeded to Belapur and brought applicant to the A.C.B. Office by official vehicle.

6. There are thus two contrary versions. One, as narrated by the complainant that he was forcibly taken to Belapur and the other as stated in the report submitted to ACB that when the applicant and panch witness were sent to Shrirampur Police Station for verification of demand, the complainant got in the car, he refused to get down and assaulted the applicant. The entire incident has occurred in presence of the panch witness Shri Vidhye. For the reasons not known, the investigating agency has not recorded the statement of the said witness Shri Vidhye, who was otherwise an independent witness. These material discrepancies on the face of the record, will render the possibility of

conviction remote and bleak and continuation of criminal proceedings would not serve the ends of justice.

7. Hence, the application is allowed in terms of prayer clause 'CC'. Consequently, FIR No. 484 of 2019 dated 10.07.2019 registered at Shrirampur City Police Station for the offences punishable under Sections 353, 332, 368, 283, 188 of the Indian Penal Code and charge-sheet registered as R.C.C. No. 139/2020 pending on the file of learned JMFC, Shrirampur are hereby quashed and set aside.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)