

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

CRIMINAL WRIT PETITION NO. 1382 OF 2021

Angad s/o. Maruti Suryawanshi .. Petitioners

Versus

The State of Maharashtra & Anr. .. Respondents

Mr.Naveen Chormal, Advocate for the petitioner.

Mr.PN. Kutti, APP for the respondent/State.

Mr.S.J. Salunke, Advocate for respondent No.2.

CORAM	:	KISHORE C. SANT, J.
RESERVED ON	:	13.12.2022
PRONOUNCED ON	:	13.02.2023

ORDER :-

01. This petition is filed challenging an order dated 12.10.2021 passed by the learned Additional Sessions Judge-2 and Special Judge, Latur on “B” summary report in Crime No.264 of 2020 of Shivaji Nagar Police Station, Latur, thereby the learned Additional Sessions Judge-2 has accepted the “B” summary report.

02. Brief facts are that on 19.08.2020 the petitioner lodged FIR with the police station alleging in the complaint that he was having tin sheds on

plot in front of the office of the Collector, Latur, from where he runs his business. The land was purchased by him from one Niyajoddin Kazi. However, since the said land was in the name of one Masjid called Jama Masjid, it was informed that the sale-deed cannot be executed in respect of the same. He stated that, however, said plot belongs to him. It is alleged that respondent No.2 filed various applications before the authorities and he made to cancel the entry taken in respect of name of the informant in the record of the Municipal Corporation. It is alleged that on 11.03.2020 during 01.00 to 02.00 p.m. petitioner's son and wife were near Tahsil Office, there respondent No.2 came and asked as to why the petitioner is filing complaint against him. Respondent No.2 told him that it is he who got the entry cancelled in the Municipal Corporation's record by making the Collector to prepare false report. Thereafter on 13.05.2020 at 01.30 p.m. again the informant, his son and wife were going towards their house, the petitioner asked respondent No.2 as to why he made the authorities to cancel the entry. On that it is alleged that the respondent No.2 abused the petitioner in the name of caste and threatened him asking as to whether he wants to live in Latur city or not. This happened in the public place, namely, Shivaji Chowk. It is alleged that thereafter on 25.05.2020 the petitioner went to the office of Superintendent

of Police, however, no action was taken. Therefore, he sent two more complaints by post on 08.07.2020 and 22.07.2020. Thereafter, he filed complaint in the Court. On the complaint the Court passed an order and thus investigation started.

03. The police filed “B” summary report. It is reported that the petitioner has lodged false complaint and there is no evidence found about the same. This report was submitted on recording that there is longstanding dispute between the petitioner and respondent No.2.

04. The petitioner objected “B” summary report stating that the petitioner was owner of plot on which he raised 20 tin sheds as he was owner and possessor. By filing application dated 05.12.2015 he also got plot regularized. Though he had applied for permission to raise tin sheds, there was no reply within two months and therefore he constructed it under deemed permission. It is stated that the respondent No.2 has got tin shed dismantled and prayed that “B” summary report be rejected.

05. The learned Special Judge by order dated 12.10.2021 accepted

the “B” summary report as prayed by the Investigating Officer. It is this order, which is challenged in this petition.

06. It is submission of the learned Advocate for the petitioner that clear case is made out by the informant against the accused person making out an offence punishable under sections 3(1)(a), 3(1)(r) and 3(1)(s) of the Atrocities Act. There are clear allegations that the petitioner was abused in a crowded public place, namely, Shivaji Chowk, Latur. The Investigating Officer, however, deliberately did not carry out proper investigation. He has wrongly concluded that because there is dispute over land between the parties, false complaint is lodged. It was necessary for the learned Special Judge to reject the “B” summary report and to take further cognizance of the case. However, by not doing so, the learned Special Judge has committed serious irregularity. He submits that the observations by the learned Judge in para 8 is totally against the spirit of the Act. The Court has recorded that “*prima facie, it appear that accused has not committed the alleged offences at the relevant time on dated 11.3.2020 & 13.5.2020.*”

07. The learned Advocate for the respondent vehemently opposed the

petition. It is submitted that the accused is in habit of lodging false report against the persons with intention to harass them. Respondent No.2 had contested election for the post of MLA, in 2014 from Ausa Constituency, Dist. Latur. For this reason the petitioner is trying to malign image of the respondent No.2 by lodging false report. He submits that even earlier in the year 2013 the informant has lodged complaint against the respondent No.2 in the Court of learned CJM, Latur for various offences. He has given details of such complaints. The petitioner in the year 2014 had filed another false complaint bearing Crime No.127 of 2014 for the offences under the Atrocities Act. Earlier also there was case filed on 12.05.2006 for the offences under the Indian Penal Code. It is case of the respondent accused that on 02.12.2015 the respondent and others had gone to dismantle and at that time the petitioner had abused and assaulted these persons. It is thus submitted that the petitioner is in habit of filing false cases against persons by taking undue advantage of his caste. He, thus, prayed for rejection of the petition.

08. For deciding this writ petition, it is necessary to see the material annexed with the petition by the petitioner and also the documents which are filed along with affidavit-in-reply by the respondents. From looking at "B"

summary report, it is seen that the police had carried out investigation pursuant to the allegations. The police in the investigation found that the witnesses who are stated to have witnessed the incident are son and wife of the petitioner. Though FIR is lodged on 19.08.2020, the alleged incidents have taken place three months and five months prior to the lodging of the FIR. Police also investigated about the property, which is stated to be of the informant. It reveals that the alleged sale-deed of the property is not legal. The document is not registered. It is on the bond of Rs.50/-. The land belongs to Railways. The entry in the name of the petitioner is cancelled by the Municipal Corporation, Latur. It is not seen that the respondent No.2 is in any way concerned with the said cancellation of the entry. It is reported that already crime was registered in 2014 against the accused by the informant. Thus, it is submitted that there is longstanding dispute between the parties.

09. Police also collected mobile location and CDR report from the mobile company. It is found that on 11.03.2020 at around 01.00 to 02.00 p.m. the mobile location of the petitioner is seen at AUSA road and witness Annasaheb's location is at Adarsh Colony and Rajiv Gandhi Chowk; whereas location of the respondent No.2 is near MIT College, Ambajogai Road. About

the second incident, it is found that at the time of second incident the petitioner's location is shown at Gategaon, Tal. Latur, location of Annasaheb is near Ambedkar Nagar, Latur and location of the respondent No.2 is seen near MIT College, Ambajogai Road, Latur. Thus, at the time of the alleged incidents, the locations of these concerned persons were different. This is also taken as a circumstance to come to the conclusion that the information is falsely lodged.

10. On going through the impugned order it is seen that the learned Court has observed that the informant though states that he is having ownership of 5000 sq. ft. out of Survey No.57, in front of Collector Office, Latur, the land is Class-II land and such land cannot be sold. The Investigating Officer had called information about the property of the petitioner. The Assistant Commissioner, Municipal Corporation addressed to the Investigating Officer that the sale-deed of the above plot is not registered and it was on the stamp paper of Rs.50/-. It is for this reason the name of the petitioner was deleted from the record of the Municipal Corporation. The Court has, therefore, rightly inferred that no case is made out by the informant and has rightly accepted the "B" summary report. The Court has acted within its

bounds. This Court finds that there is no perversity or illegality committed by the learned Special Judge, Latur and no interference is called for in the impugned order. The Writ Petition is, thus, dismissed.

[KISHORE C. SANT, J.]