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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2376 OF 2021**

Pankaj Mangilal Jain Petitioner.
V/s
The State of Maharashtra and Ors. Respondents.

Mr. Manish N. Jain a/w Ritu G. Gahlot i/by S.M. Jain Associates for the
Petitioner.
Mr. A.R. Kapadnis, APP for the Respondent-State.

**CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE: FEBRUARY 07, 2023

P.C.:-

1] Petitioner has sought registration of offence against Respondent No.7, the then Police Inspector of Traffic Police, Kasarvadawli and also initiation of departmental proceedings. It is further claimed by the Petitioner that the State be directed to pay compensation of Rs 1,00,000/- for the illegal activity of the police.

2] The case of the Petitioner rests on the alleged incident of 17/01/2021 wherein it is claimed that officials working under direct supervision of Respondent No. 6, i.e. Respondent Nos. 7 and 8 approached in the jewelry shop of the Petitioner and started

demanding contribution so as to celebrate traffic safety week. It is claimed that against the said demand of contribution, no receipts were passed as such on resistance hot discussion took place between the Petitioner and Respondent No.7 and constable More.

3] In the aforesaid backdrop, on 22/01/2021, when the Petitioner was operating his business from the shop premises, the action under Motor Vehicles Act was initiated in the matter of bike being parked by the Petitioner in front of his shop. It is claimed that two wheeler vehicle of the Petitioner was towed away. It is as such claimed that aforesaid action of indulging into hot discussion on 17/1/2021 resulted in towing away of two wheeler vehicle of the Petitioner on 22/01/2021 in the form of punishment imposed by the Respondents for not extending cooperation in giving contribution for celebration of traffic police safety week. Accordingly, Petitioner claimed that he has preferred complaint/representation on 17/1/2021 on the letter-head of Rajasthan Sanskriti Sanrakshan Sanstha of the alleged incident of 17/01/2021. According to the Petitioner, entire incident is recorded in CCTV and the claim of the Respondents that parked vehicle was

creating impediment in smooth flow of traffic is incorrect and baseless stand. It is the contention of the Petitioner that in this background not only offence needs to be registered and investigated by Senior Officer like Deputy Commissioner of Police but also departmental action should be directed against Respondent No.7.

4] This Court has called response of Respondent No.7 who has tendered his affidavit-in-reply on 2nd February 2023. Petitioner has tendered his rejoinder to the same.

5] This Court in the backdrop of the affidavit tendered by Respondent No.7 and Petitioner's rejoinder has appreciated the rival claims. Respondent No.7 in response to the claim made by the Petitioner in the Petition has come out with a specific statement that incident of 17/01/2021 narrated by the Petitioner is far away from truth. According to him, on 17/01/2021 Traffic Police Constable has noticed wrong parking of the two wheeler vehicle by the Petitioner and adjoining shop owners which was creating impediment in smooth flow of traffic. It is claimed that accordingly he towed away the

vehicle so as to have smooth flow of traffic. It is claimed that the Petitioner has created impediment in discharge of official duty of the said Police Constable. In view of quarrelsome nature of the Petitioner who is frequently lodging complaint against public officers, Respondent No.7 claimed to have personally visited the shop. At that time it is claimed that Petitioner was very aggressive in dealing with the public servants who were discharging their official duty. It is further claimed that it is upon request of the adjoining shop owners vehicles which were towed away from the said area were released on assurance that parking norms will not be flouted. Respondent No.7 in his affidavit has specifically stated in para-k as under:-

“k) With reference to Paragraph No.29 of the Writ Petition, the allegations made in the said para are totally false. The said statement is slanderous statement but it is fact that getting aggrieved by towing of his Motorbike, petitioner felt insulted and his ego got hurt, petitioner in anger ran upon the Havldar Mr. More, at the very instance myself prevented and aside petitioner from abusing and running on Mr. More. I submit that, while preventing Petitioner unknowingly I hit petitioner for which I felt sorry and expressed clemency which was recorded in CCTV installed at the Petitioner Shop.”

6] In the aforesaid background, if we appreciate the contention of Counsel for the Petitioner that his vehicle was parked appropriately, it can be noticed from the photographs that half part of the road was opened for traffic in front of the shop of the Petitioner and on other half part of the road, repair/construction of cement way appears to be in progress. In view of above, it cannot be said that Respondents have taken recourse to any highhanded action. Petitioner No.7 has already stated that he has expressed remorse qua his act of pushing the Petitioner. Apart from above, it can be noticed that in view of heavy traffic opposite to the shop of the Petitioner and construction work of road in progress, Respondents appear to be within their official duty in regulating traffic which also includes managing parking. Apart from Petitioner, no other shop owners have any grievance against the action of Respondents as they were discharging their official duty.

7] In this backdrop, we do not see any reason which warrants any further orders in the matter. Petition accordingly stands dismissed.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]