

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1747 OF 2022

Rajkumar M. Nadar

.... Petitioner

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Roseline Nadar, Advocate for Petitioner.
- Mr. N. B. Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 24th JULY, 2023

P.C. :

1. The Petitioner has challenged the order dated 17/06/2016 passed by the Metropolitan Magistrate, 26th Court, Borivali, Mumbai, in CC No.1195/SS/2016. The learned Magistrate had issued process u/s 323, 504, 506 of the Indian Penal Code against the Petitioner. The Petitioner had challenged that order before the Court of Sessions, Dindoshi in Criminal Revision Application No.220 of 2016. The said Revision Application was dismissed on 28/12/2021.

2. Learned counsel for the Petitioner submitted that the incident is not true. The incident allegedly had taken place in the Court premises and yet the Respondent No.2-complainant has not mentioned name of any of the witnesses. She submitted that the Magistrate should have ordered police inquiry u/s 202 of Cr.PC. In spite of that, he erred in issuing summons by taking cognizance u/s 204 of Cr.PC.

3. I have considered these submissions. The complaint mentions that the Petitioner as well as the Respondent No.2 the complainant were practicing lawyers. The incident took place on 03/03/2016 at one of the gates at about 11.45 a.m. The complaint describes that the Petitioner approached the complainant and abused him. The abuses are reproduced in the complaint. He also threatened the complainant due to which quarrel took place. The Petitioner hit the complainant on the face. The complainant also suffered an injury to his middle finger. He lodged his NC at Borivali police station and after that, on the advice of the police he went to Bhagwati hospital, but it

was closed. Then he was admitted to Shatabdi Hospital, at Kandivali (W), Mumbai. He was treated there. His complaint mentions that since past many months, the Petitioner was abusing, threatening and torturing the complainant. On this basis, the complaint was lodged before the Magistrate.

4. The ingredients of all the sections are made out. The effect of not mentioning names of any witnesses, is matter of trial. The complainant had gone to the hospital. Considering that the complaint consists the requisite averments attracting ingredients of all the sections, for which the process is issued, I do not see any reason to interfere with the order of issuance of process. Consequently, the Petition is dismissed.

(SARANG V. KOTWAL, J.)