

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

CRIMINAL WRIT PETITION NO. 2507 OF 2022

Deepak ***Keval Mehra.***

.. Petitioner.

Versus

1. State of Maharashtra.

2. Pankaj Sambhaji Bandal.

..Respondents.

Mr. Aman Arora and Mr. Vivek Kumar i/b Ms. Rutuja Pawar for the petitioner.

Mr. J. P. Yagnik, for the respondent No.1-State.

Mr. Pankaj S. Bandal, the respondent No. 2 present in-person.

**CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.**

DATE : MARCH 10, 2023.

ORDER (Per Sharmila U. Deshmukh, J.) :

1. Rule. Rule made returnable forthwith with the consent of parties and taken up for final disposal. Learned APP waives notice on behalf of the respondent No.1. The respondent No.2 is personally present in the Court and waives notice on behalf of himself.

2. By this petition, filed under Article 226 of the Constitution of India

and section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of the FIR registered vide CR No.68 dated 26th February 2022 with Rajgad Police Station, Pune Rural for the alleged offence punishable under section 353 of the Indian Penal Code, 1860.

3. Perusal of the FIR reveals that it is the case of Respondent No 2 that after taking written permission from the Joint Commissioner of Labour, Pune Division, Pune, he along with one Sunil Shinde visited Dishti Industries Private Limited. It is alleged that the respondent No.2 showed his identity card to the security guard and informed him that he is an Inspector of Mathadi Board and wanted to meet the HR of company. It is alleged that he registered himself and Sunil Shinde in the entry register and entered the company and conducted the inspection. It is alleged that the respondent No. 2 thereafter went to the cabin of petitioner and asked him to fill in certain forms and provide information as per the inspection report. It is alleged that when the petitioner asked the respondent No.2 to show the identity card of said Sunil Shinde, the respondent No.2 informed the petitioner that Sunil Shinde was appointed by the Government of Mathadi Board and in proof thereof, the respondent No.2 showed letter of appointment of Sunil Shinde from his private email id to the company's

email id. It is alleged that when the petitioner insisted on photo identity of Sunil Shinde, Sunil Shinde gave his Aurangabad Sports Club identity card.

4. It is further alleged that when the respondent No.2 called upon the petitioner to provide the information about the company and the workers, the petitioner snatched the inspection report of company, and as such obstructed him from discharging his duties. Pursuant thereto, the respondent No.2 lodged the subject FIR.

5. Learned counsel for the petitioner submits that the incident was an outcome of some misunderstanding regarding the identity of the respondent No.2 and the said Sunil Shinde. He would further submit that the ingredients of Section 353 of Indian Penal Code are not made out in as much as perusal of the FIR reveals that there is no allegation of assault or criminal force with the intention to prevent the public servant from discharging his duty. He would submit that as no proper official identity was furnished, the Petitioner took the Report. In support of his submissions, learned counsel for the petitioner relied upon the decision of *Punjab and Haryana High Court in the case of Kuldip Rai @ Kuldeep Rai Sood vs. State of Punjab and another in CRM-M No. 21002 of 2022*

dated 6th September 2022.

6. Learned counsel for the petitioner would submit that the petitioner has also filed a written complaint against the respondent No.2 which is annexed at Page 76 of the Petition seeking registration of the FIR against the Respondent No 2.

7. The respondent No.2, who is now retired from service is personally present in the Court. He states that he has no objection if the impugned FIR is quashed and set aside.

8. Learned counsel for the petitioner has also tendered an affidavit, undertaking to withdraw the counter complaint filed by the petitioner with the Commissioner of Police, Pune, dated 12th March 2022, against the petitioner and said Sunil Shinde, requesting for registration of an FIR against them for the alleged offences punishable under sections 385, 211, 166 and 506 of the Indian Penal Code, 1860. The petitioner's affidavit undertaking to withdraw the complaint against the respondent no.2 and Sunil Shinde is accepted.

9. From the above, it appears that there was a misunderstanding with

regard to the identity of respondent No.2 and said Sunil Shinde. Admittedly, Sunil Shinde did not produce an official identity card and instead produced an identity card issued by Aurangabad Sports Club. As such *prima facie*, it appears that the petitioner was under a mistaken belief that the respondent No.2 and said Sunil Shinde were not public servants and as such did not furnish the required information. Perusal of the FIR reveals that there is no allegation of use of criminal force or assault with the intention, i.e., requisite *mens rea*, to deter the respondent No.2 from discharging his duties.

10. The respondent No.2, who is present in Court, reiterates that he wants to amicably resolve the dispute. The respondent No.2 has retired by superannuation and as such does not wish to further prosecute the FIR. He does not dispute that there was some misunderstanding as regards the identity of said Sunil Shinde and himself.

11. Considering that the parties now want to amicably resolve the disputes, in our opinion, no fruitful purpose would be achieved by permitting the continuance of FIR/proceedings against the petitioner. As both the parties do not wish to prosecute further their individual

complaints, in our opinion, there is no impediment in allowing the present Petition.

12. Copy of Aadhaar Card of the respondent No.2 is tendered in the Court. Learned APP has verified the same with the original Aadhaar Card.

13. For the aforesaid reasons, the petition succeeds. The FIR registered vide CR No. 68 dated 26th February 2022 with Rajgad Police Station, Pune Rural for the alleged offence punishable under section 353 of the Indian Penal Code, 1860 and consequently, proceeding if any, are hereby quashed and set aside. Rule is made absolute in the above terms.

14. As the petitioner has undertaken to withdraw his counter complaint, which is annexed at Exhibit-G (page No.76) to this petition, for the purpose of recording compliance, stand over to 31st March 2023.

15. All concerned to act on the authenticated copy of this order.

[SHARMILA U. DESHMUKH, J.]

[REVATI MOHITE DERE, J.]

[The order is modified as per order dated 27-3-2023. The correction in the cause title of the order is shown in the Bold & Italics.]