

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2801 OF 2021**

Rahul Dayashankar Yadav And Anr.

... Petitioners

V/s.

The State Of Maharashtra And Anr.

... Respondents

Mr. Vinayak Patil for Petitioners.

Mr. S. S. Hulke, APP for Respondent No.1-State.

Mr. R. D. Suryawanshi i/b Mr. Suraj N. Naik for Respondent No.2.

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 10th JULY, 2023.

PC. :

1. Heard learned Advocate for Petitioners, learned APP for State and learned Advocate for Respondent No.2. Perused record of investigation.
2. Apart from the *prima facie* case made out in the FIR against Petitioner No.1, the C.C.T.V. footage seized by the police during the course of investigation, supports the version of prosecutrix that, the Petitioner No.1 made gesture of giving a flying kiss to her and therefore committed an offence under Section 354 of the IPC. As far as Petitioner No.2 Ms. Poonamkumari Mohato is concerned she is the root cause of the entire episode i.e. she called other four persons by giving a phone call for commission of present crime and therefore Section 34 of the IPC is applied to the crime.

3. In view of the above, a strong prima facie case against Petitioners is made out and this is not a fit case for quashing of FIR.

We permit the Investigating Officer to submit final report before the Court of Competent Jurisdiction within a period of one week from today.

4. The arguments advanced by the learned Advocate for Petitioners amounts to testing his defence and veracity of the statements of witnesses. It is the settled position of law that, at the stage of discharge and/or quashing of the Criminal proceedings while exercising the powers under Section 482 of Cr.P.C. and/or under Article 226 of the Constitution of India, the Court is not required to conduct a mini trial. Reliance is placed on a decision of the *Hon'ble Supreme Court in the case of Central Bureau of Investigation Vs. Aryan Singh, dated 10th April 2023 passed in Criminal Appeal No. 1025-1026 of 2023 (@ SLP (CRL.) NOS. 12794-12795 of 2022)*.

5. As noted earlier, the arguments advanced by learned Advocate for Petitioners amounts to conducting a mini trial, in a Petition under Article 226 of the Constitution of India for quashing of FIR which is not permissible under the law.

6. Petition is accordingly dismissed in *limine*.

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)