

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

CRIMINAL WRIT PETITION NO.1982 OF 2023

Khurshed Junaid Ansari	... Petitioner
Versus	
State of Maharashtra and Ors.	...Respondents

Mr. Jahangir Iqbal, for the Petitioner.

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent – State.

API- Kate, Naya Nagar Police Station, is present.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 11th JULY 2023

P.C. :

1. By this petition, the petitioner has sought the following substantive and interim reliefs:-

- “(a) that this Hon’ble Court may be pleased to direct the respondent no. 3 and 4 to lodge FIR against the accused under relevant section and hand over the same for investigation to some competent police officer not below the rank of Deputy Commissioner of Police;
- (b) that this Hon’ble Court may be pleased to direct the respondent no. 3 and 4 to take disciplinary action against the respondent no. 5;

- (c) that this Hon'ble Court may be pleased to direct the respondent no. 3 to provide assistance to the petitioner and his family to re-enter into the flat premises bearing flat no. 102/D, Priyal Enclave, Mira Road (E), Thane – 401107;
- (d) Pending the hearing and final disposal of the present petition this Hon'ble Court may be pleased to direct the respondent no. 2 and 3 to detach the respondent no.5 from the post of the respondent no. 4;
- (e) pending the hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct respondent no. 2 and 3 to secure and preserve the CCTV footage of the respondent no. 4 police station and the society CCTV Footage where the said flat is situated;
- (f) pending the hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct respondent no. 2 and 3 to provide information to the petitioner under RTI Act if made concerning the station diary and the CCTV footage of the respondent no. 4 police station.”

2. Learned counsel for the petitioner submits that he was illegally detained by the police, at the behest of the society members and that the respondent No.5 – Jitendra Vankoti, Senior Inspector of Police, Naya Nagar Police Station, asked him to vacate the flat occupied by him, failing which he will have to spent his life in jail. The petitioner has further alleged that undue pressure was put on the

petitioner by the respondent No.5 to vacate the flat immediately and only when the petitioner succumbed to the alleged illegal demand of the respondent No.5 that the petitioner came to be released on the condition that he hand over the said flat to Pradeep Nair. Pursuant to the allegations made by the petitioner that he was illegally detained by the police of the Naya Nagar Police Station, Mira Road (East), Thane, we directed the police of the Naya Nagar Police Station, to forthwith take into the custody of the CCTV footage of the said police station on 11th June 2023 from 4:00 to 9:00 p.m. as well as collect the footage from the area, which covers the alleged incident in the society. The same was done vide order dated 16th June 2023. By the very said order, the Deputy Commissioner of Police (DCP), Zone – I was directed to monitor the investigation of the said case and the CCTV footage was directed to be taken into the custody, at the earliest and in any event within 72 hours.

3. On 22nd June 2023, the learned APP submitted that the petitioner did not have a single document to show his right, title and

interest in the property in question, of which possession was sought. He submitted that even the Agreement for Sale allegedly entered into between the parties i.e. the petitioner and one Rajendra, had not been signed by the said Rajendra. The same was not disputed by the learned counsel for the petitioner that Rajendra had not signed the said document i.e. Agreement for Sale. The contention of the learned counsel for the petitioner is that despite the same, he was put into possession by the society, by giving their NOC. We in our said order dated 22nd June 2023 had observed that “we fail to understand how society can put the petitioner into possession without there being any valid agreement between the petitioner and Rajendra for the sale of premises in question.” On the said date, the learned APP sought time to file a detailed affidavit to show as to how the petitioner had cheated Rajendra and his family as well as other persons and that the petitioner had suppressed certain material documents and facts and approached the Court with unclean hands, warranting imposition of costs on the petitioner. Learned APP had also submitted that presently the investigation of the said case is being done by ACP, Navghar

Division, since the petitioner had made certain allegations against the police of the Navghar Police Station.

4. Pursuant thereto, the learned APP has filed an affidavit of Umesh S. Mane-Patil, Assistant Commissioner of Police, presently working with Navghar Division, Mira Bhayandar Vasai Virar Police Commissionerate, District - Thane. The said affidavit is dated 6th July 2023. In the said affidavit, in particular in paras 14 to 21, it is stated as under:-

14. I say that during the course of enquiry, it also revealed that Smt. Sunita Jagtap showed the document of the ownership of flat D 102, and Petitioner i.e. Khurshid Ansari was unable to provide any documents pertaining the ownership of the said flat, which prima facie goes to show that the Petitioner i.e. Khurshid Ansari was illegally entered the flat. So Sr. Police Inspector of Police Vankoti instructed PI Jiland and SHO Police Sub Inspector Sunil Chavan to record the statement of Smt. Sunita Jagtap and registered a case of trespass against Khurshid Ansari and he went to his room.

15. I say that CCTV Footage shows that while PSI Rahul Bhagwat was typing the complaint of said Smt. Sunita Jagtap, meanwhile, as there was an argument between the officials of the society and the Petitioner i.e. Khurshid Ansari. I further say that during the course of enquiry, it also shows that the Petitioner i.e. Khurshid Ansari was told to stay in the Duty Officer/Thane Amaldar Room at 16.21.18 hrs to keep away him

from them.

16. I further say that it is seen in CCTV Footage that the Petitioner i.e. Khurshid Ansari was talking with his lawyer namely Advocate Shadab Kopekar, Smt. Sunita Jagtap and Pradip Nair. It is seen in the CCTV footage that Khurshid Ansari was roaming freely in Naya Nagar Police Station and was talking on a mobile phone. I further say that the Petitioner i.e. Khurshid Ansari was requested Sunita Jagtap, not to register a complaint against him, he will vacate the room. As Sunita Jagtap told police that a compromise has been done between them so she will not file a complaint against Khurshid Ansari.

17. I further say that it is seen in CCTV Footage that at 19.38.00 hrs. Khurshid Ansari and society members went outside of the police station and at 20.25.14 hrs. Khurshid Ansari and his lawyer namely Advocate Shadab were entered into the cabin of Senior Police Inspector Mr. Vankoti and came out at 20.29.00 hrs. Khurshid Ansari was moving freely in the police station and his movement was not restricted by the Police. Petitioner Khurshid Ansari voluntarily came to the police station. As a compromise has made out between society officials, Smt. Sunita Jagtap and Khurshid Ansari, they all went together from Naya Nagar Police Station.

18. I say that in the statement of the Society office bearers, residents and room owner Sunita Jagtap, it is not stated that Khurshid Ansari was detained at Naya Nagar Police Station and the room was vacated. Therefore the allegation of the petitioner that he was detained in the police station for the purpose of vacating the said room, has no substance at all and I deny the said allegations in toto. I further say that the said allegation is false, frivolous and baseless.

19. I say that as far as the allegation of the Petitioner in respect of threats given by Mr. Jitendra Vankoti, Senior Police

Inspector, Naya Nagar Police Station in respect of vacating the said Flat No. D 102 of Priyal Enclave Co-operative Society is concerned, it is respectfully submitted that during the course of enquiry, it revealed that on 11/6/2023 at around 02.30 pm Mrs Sunita Rajendra Jagtap, Pradip Nair along with office bearers of the said society and residents of the society called the Petitioner i.e. Khurshid Ansari and told him that the owner of the said room has come and he should vacate the said room within 2 hours. At that time, the Petitioner i.e. Khurshid Ansari asked them for some time, but they were not ready to listen and become more aggressive.

I further say that during the enquiry, it also revealed that then Khurshid Ansari called his lawyer Advocate Shadab Kopekar and as per the instruction of his lawyer, the Petitioner dialed 112. His phone call was attended by Police Head Constable Pramod Kendre at 15.39.58 hrs. and he reached at the said call point at about 15.49.15 hrs. and he called the Petitioner i.e. Khurshid Ansari, who told the said Head Constable Kendre that, he was going to the police station and the opponents were also going to the police station. I further say that during the course of enquiry, it revealed that at about 16.03.03 hrs., the Petitioner i.e. Khurshid Ansari, Shrimati Jagtap, Pradip Nair and society members entered into Naya Nagar Police Station.

I say that at about 16.08.02 hrs. the Senior Police Inspector Mr. Jitendra Vankoti entered into the said Police Station as he saw the crowd in front of Police Inspector (Crime) Mr. Jilani's Cabin and he asked Police Inspector (Crime) Jilani about the same. It is revealed by Police Inspector Mr. Jilani and Sr. Police Inspector Mr. Vankoti that Smt. Sunita Jagtap is the owner of Flat no. D 102 of Priyal Enclave Co-operative Society and Khurshid Ansari who submitted a forged document to the said society, living in the said flat and refused to vacate it so they all came to the police station.

I say that Smt. Sunita Jagtap showed the document of the ownership of flat D 102, however, the Petitioner i.e.

Khurshid Ansari was unable to provide any documentation regarding the ownership of the said flat, it was clear that the Petitioner i.e. Khurshid Ansari was illegally entered into the said flat. Hence, the Senior Police Inspector namely Mr. Vankoti instructed Police Inspector Mr. Jilani and S.H.O. Police Sub Inspector Mr. Sunil Chavan to record the statement of Smt. Sunita Jagtap and to register a case of trespass against the Petitioner i.e. Khurshid Ansari and he went to his room.

I say that in the statement of the Society office bearers, resident and room owner Smt. Sunita Jagtap did not mention that the Petitioner Khurshid Ansari was threatened by the Senior Police Inspector Mr. Jitendra Vankoti to vacate the said flat.

I say that as per the CCTV footage of the police station from 20.25.14 hrs to 20.29.00 hrs Khurshid Ansari and his lawyer Adv. Shadab Kopekar were in front of Senior Police Inspector Mr. Jitendra Vankoti and when the Petitioner was alongwith his lawyer namely Advocate Shadab Kopekar, the question of threatening him does not arise at all. Therefore, the allegation of petitioner Sr.Pi. JitendraVankoti threatened him is baseless and false.

20. I say that as far as contention of the Petitioner in respect of allegations of articles of Petitioner forcibly taken out from the said flat on 11.06.2023 from 22.30 hrs to 23.00 by Shri Jitendra Vankoti from the said flat is concerned, it is respectfully submitted that on 11/6/2023 at around 02.30 pm Mrs. Sunita Rajendra Jagtap, Pradip Nair along with office bearers of the society and residents of the society called Khurshid Ansari and told him that the owner of the room has come and he should vacate the said room within 2 hours. At that time the Petitioner i.e. Khurshid Ansari asked them for some time, but they were not ready to listen and become more aggressive, hence, the Petitioner i.e. Khurshid Ansari dialed on 112 and came His phone call was attended by Police Head Constable Pramod Kendre at 15.39.58 hrs. and he reached at

the said call point at about 15.49.15 hrs. and he called the Petitioner i.e. Khurshid Ansari, who told the said Head Constable Kendre that, he was going to the police station and the opponents were also going to the police station. I further say that during the course of enquiry, it revealed that at about 16.03.03 hrs., the Petitioner i.e. Khurshid Ansari, Shrimati Jagtap, Pradip Nair and society members entered into Naya Nagar Police Station. Therefore, the question of forcibly taking out the articles of the Petitioner by Mr. Vankoti does not arise at all. Even the Petitioner stated in his statement dated 24.06.2023 that half of the articles are still lying in the said flat.

21. I say that I have concluded my enquiry on 03.07.2023 and submitted report to the Deputy Commissioner of Police, Zone-1, Mira Bhayandar – Vasai Virar Police Commissionerate, Dist.: Thane and concluded that the allegations made by the Petitioner are prima facie found to be false, frivolous and baseless and in order to grab the aforesaid flat, the Petitioner has leveled such bald allegations against the investigating agency. I further say that the enquiry revealed that the said flat is owned by Mr. Rajendra Gulab Jagtap who purchased the said flat from Arpit Builders in the year 2000. The enquiry also revealed that in the year 2000, the said Mr. Rajendra Gulab Jagtap suffered paralysis attack and presently he is residing at Room No.205, Vastushri Vihar, Near Railkar Hospital, Loni Kalbhor, Tal.: Haveli, Dist.: Pune. The enquiry further revealed that there was no transaction between Mr. Rajendra Gulab Jagtap and the present Petitioner at all. Even during the course of enquiry, it revealed that there is no transaction in respect of said flat between the Petitioner and Mr. Amanulla Ahmed Khan, owner of Amar Property as per the statement of Mr. Amanulla Ahmed Khan. Even the enquiry also revealed that the present Petitioner filed Regular Civil Suit bearing No.326/2022 before the Learned 4th Joint Civil Judge, Senior Division, Thane. The enquiry further revealed that the present Petitioner and Amanulla Ahmed Khan with common

intention and in order to grab the said flat, obtained the information of the said room, and they exhibited that the said flat was purchased from Mr. Rajendra Gulab Jagtap to the tune of Rs.32 Lakhs and further exhibited that for that purpose, token amount of Rs.30,000/- was given to Power of Attorneyholder Mr. Pradip Kunjiram Nair and prepared false document of Agreement for Sale.

I further say that my enquiry report was accepted by the Deputy Commissioner of Police, Zone-1, Mira Bhayandar – Vasai Virar Police Commissionerate, Dist.: Thane.

5. It appears that the enquiry report has been accepted by the Deputy Commissioner of Police, Zone-1, Mira Bhayandar – Vasai Virar Police Commissionerate, Thane. Apart from the aforesaid, it appears that one Saad Shamshuddin Ansari had also made a written application dated 29th September 2022 as against the petitioner and his wife alleging cheating and withdrawal of an amount of Rs.49,65,000/- and that the said enquiry is still in progress with the Naya Nagar Police Station.

6. It is not in dispute that the petitioner had initiated civil dispute in the said case. *Prima facie*, it is not disputed that the Agreement for Sale executed between the petitioner and Rajendra had

not been signed by Rajendra nor has anybody signed on behalf of Rajendra.

7. Be that as it may, we find that the petitioner has *prima facie* made frivolous and false allegations as against the police and have also approached the court with unclean hands. Hence, we dismiss the petition of the petitioner and direct the petitioner to deposit costs of Rs.25,000/- with the Maharashtra State Legal Services Authority, within three weeks from today.

8. Accordingly, the Petition is dismissed and disposed of as such.

9. To be placed under the caption 'for compliance' on **8th August 2023**.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.