

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

CRIMINAL WRIT PETITION NO. 2842 OF 2023

Jyoti Nitin Bhongade

...Petitioner

Versus

The State of Maharashtra

...Respondent

Ms. Dhinika Jain a/w Pratik Yadav, i/b K.H. Giri, Advocate, for
Petitioner.

Mr. A.R. Patil, APP, for State/Respondent.

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CORAM : SARANG V. KOTWAL, J.

DATE : 24th AUGUST 2023

PC :

1. Heard learned Counsel Ms. Dhinika Jain for the
Petitioner and Mr. A.R. Patil, APP, for State/Respondent.

2. Rule.

3. Rule is made returnable forthwith by the consent of both
the parties.

4. The Petitioner has challenged the proceedings in Court
Case No.108 of 2022 of Vikhroli Police Station which has resulted
in Chapter Case No.40 of 2022 before the Special Executive
Magistrate Vikhroli Division. The learned Special Executive
Magistrate had issued notice dated 17th December 2022 under

Section 111 of Criminal Procedure Code, 1973 (for short “Cr.P.C.”).

5. Learned APP submitted that the proceedings are still going on.

6. The notice issued under Section 111 with reference to Section 110(g) of Cr.P.C., refers to C.R. No.528 of 2022 registered at Vikhroli Police Station under Section 387, 354, 509, 504, 506(II) r/w 34 of Indian Penal Code. The FIR was lodged against the present Petitioner, Asmita Bhongade and Shailesh Verma. The FIR mentions that on 19th October 2022 the Petitioner and her husband had abused one Salma Ansari for which an NC complaint was lodged. On 12th November 2022, Shailesh Varma threatened Savita Petkar. He was continuously threatening her. Therefore, the FIR was lodged. Thereafter these proceedings were initiated against her.

7. Learned Counsel for the Petitioner submitted that it was a private dispute and only at the behest of the said first Informant the Petitioner was implicated. Learned Counsel relied on the order passed by this Court (Coram: Amit Borkar, J.) on 29th March 2023 in Writ Petition No.629 of 2023 whereby, the proceedings pending

against the co-accused Shailesh Verma under the same provisions of Cr.P.C. were quashed. She submitted that on the ground of parity the Petitioner deserves the same relief as her role is much lesser to that of Shailesh Verma. She emphasized on the principles of parity for seeking relief in this Petition.

8. Learned APP submitted that the dispute is not strictly private in nature but the offence of Section 387 of IPC was involved. He submitted that therefore the proceedings are rightly initiated. He submitted that the Petitioner can still participate in the inquiry and point out as to how the execution of bond is not necessary.

9. I have considered these submissions. I agree with the submissions made by the learned Counsel for the Petitioner that the order passed in Writ Petition No.629 of 2023 has bearing on the Petitioner's case and on parity, she deserves the same treatment. The main co-accused Shailesh Verma was given relief vide the said order dated 29th March 2023 passed in Writ Petition No.629 of 2023. This Court (Coram: Amit Borkar, J.) has observed

that the show cause notice issued under Section 111 of Cr.P.C. against Shailesh Verma did not disclose any material to show that peace and tranquility was affected or there was commission of offence affecting public safety. Reliance was also placed on the judgment of **Christalin Costa (Smt.) & Ors. v. State of Goa & Ors.**, as reported in 1993 Mh.L.J. 1409.

10. Thus, since the main co-accused is granted relief and the proceedings initiated against him pursuant to the notice under Section 111 of Cr.P.C. was quashed; on parity the Petitioner also deserves the same relief.

11. Hence, the following order:

ORDER

- i) The proceedings pending against the Petitioner vide Chapter Case No.40 of 2022 in Court Case No.108 of 2022 as well as the order passed on 17th December 2022, by the Special Executive Magistrate Vikhroli Division, are quashed and set aside.

ii) The Rule is made absolute in the aforesaid terms.

iii) The Writ Petition is disposed of accordingly.

(SARANG V. KOTWAL, J.)