

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

CRIMINAL WRIT PETITION NO.3061 OF 2023

Imran Sher Khan and Ors.

...Petitioners

Versus

Mohammed Gaus Alias Aslam

Nepali and Ors.

...Respondents

....

Mr. Umair A. Ansari i/b. Mr. Mohsin H. Khan for the Petitioners.

Mr. B.J. Shaikh and Ms Shabana Shaikh for the Respondents.

Mr. Ajay Patil, APP for Respondent-State.

Mr. Sachin, PSI, Ghatkopar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI &

N.R. BORKAR, JJ.

DATED: 20th SEPTEMBER, 2023.

P.C.:-

1. Learned counsel for the Petitioners states that subsequent to filing of this petition offence under Section 354 of the IPC has been incorporated. He further states that the material on record indicates that the Respondent Nos.1 to 9 had in fact attempted to commit murder of the First Informant and hence Section 307 of the IPC is attracted.

2. Suffice it to say that re-investigation cannot be ordered

solely on this ground. It is for the Trial Court to consider the material on record and to frame the charge either under Section 354 or 307 of the IPC as the case may be. Hence, no case is made out for re-investigation. As regards the prayer for police protection, the Petitioner/First Informant is at liberty to file an application before the appropriate authority.

3. The petition is disposed of in above terms.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)