

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 116/2021

Mr. Firoz Khan Khasim Khan,
Age 40 years, Occ. Advocate,
R/o. Sironcha, Tah. Sironcha,
Dist. Gadchiroli.

PETITIONER

VERSUS

1. State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. Police Station Officer,
Police Station Sironcha,
Tah. Sironcha, Dist. Gadchiroli.
3. Santosh S/o. Sadawali Kondagurla,
Age 26 yrs., Occ. Lab Technician,
R/o. Viyampalli, Tah. Sironcha,
Dist. Gadchiroli.

RESPONDENTS

Mr. R.R. Vyas, Advocate for petitioner.
Mr. M.J. Khan, Additional Public Prosecutor for respondent Nos. 1 & 2.
Mr. P.J. Mehta, Advocate for respondent No.3.

CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES JJ.
DATE : 14.02.2023

ORAL JUDGMENT (PER VINAY JOSHI, J.)

Heard.

2. Rule. Rule is made returnable forthwith.

3. By this petition, the petitioner is seeking to quash First Information Report ('FIR') in Crime No. 216/2020 for the offence punishable under Sections 417, 420 of the Indian Penal Code registered with the Police Station Sironcha, Tahsil Sironcha, District Gadchiroli.

4. At the instance of report lodged by Santosh respondent No.3, crime has been registered on 06.11.2020. It is his case that he had casual acquaintance with girl namely Vasantha, resident of Telangana State. They were frequenting with each other on mobile phone. Vasantha informed a lady namely Tirumalla (accused No.1) about the things, on which Tirumalla made a phone call to the informant to meet her. Co-accused Tirumalla stated that she is President of some Mahila Mandal and raised demand of Rs. 2 lakhs to screen the love affair, otherwise she would put the informant in trouble. The informant got scared about the things and paid Rs. 70,000/- to co-accused Tirumalla. Thereafter, at the behest of co-accused Tirumalla, he also gave in writing on stamp paper that he would pay remaining sum of Rs. 1,30,000/- within stipulated period. The informant realized that he has been cheated and therefore, the report.

5. Petitioner Firoz Khan Khasim Khan is practicing Advocate practicing at the Court of Civil Judge, Sironacha, District Gadchiroli. It is the petitioner's case that he is nowhere concern with the allegation levelled by the informant against co-accused Tirumalla. It is submitted

that on account of profession, he had acquaintance with the co-accused Tirumalla and was advising her as and when required. He stated that once he has written bond “Hamipatra” in between the informant and girl Vasantha, but he was totally unaware about alleged demand by co-accused Tirumalla. According to him absolutely, there is no material against him and therefore, seeks to quash of FIR as it would be abuse of the process of Court. The learned counsel appearing for respondent No. 3/informant has filed short affidavit-reply stating that he had no transaction with the petitioner Firoz and thus, gave his no objection for quashing of FIR. The learned APP though resisted this petition, however conceded that beside statement of one Anant Reddy and statement of co-accused Tirumalla, there is no other material. With the assistance of both side, we have examined both statements.

6. Basically, informant Santosh lodged report with Police solely blaming that co-accused Tirumalla has cheated and extorted for huge sum. There is no reference in the entire FIR that anybody else than co-accused Tirumalla had any role in the entire episode. The statement of Advocate Anant Reddy only denotes that meeting was held at the house of petitioner where there happened to be some discussion in between the informant and Vasantha. The statement of co-accused Tirumalla says that all the time, she was informing the things to the petitioner and both of them have cheated the pray at his office.

7. Pertinent to note that the statement of co-accused Tirumalla though relevant, however it does not speak anything besides the contact of Tirumalla with the petitioner. Her statement is to be tested on the anvil of the grievance of the informant. It is not the informant's case that either of the time petitioner contacted him or raised monetary demand. Not only that he never says that he went to the office of the petitioner where in connivance with co-accused Tirumalla, the petitioner did something. It appears that on the basis statement of co-accused Tirumalla, the Police have included the petitioner by invoking the principle of joint liability. Particularly when the informant never states anything nor his supplementary statement is recorded, other material carries no meaning.

8. The inherent powers have been vested with this Court with dual object i.e. to prevent the abuse of process of Court and to secure the ends of justice. The Supreme Court in case of ***State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335*** in paragraph 102 has laid down certain guidelines while considering the provisions of Section 482 of the Code of Criminal Procedure. The petitioner's case squarely covers in guideline No.1 which says that the allegation made in FIR, even if taken at their face value and accepted in its entirety, do not prima facie constitute any offence or make out a case against the accused. It is apparent that material collected by the prosecution is quite scanty and

obviously there are no chances of securing conviction in the trial. The continuation of such investigation and trial would be futile exercise rather harassment of the petitioner. In the circumstances, we find that the petitioner has made out a case requiring this Court to step in by exercising our inherent jurisdiction.

9. In view of above, petition is allowed. We hereby quash and set aside the Crime No. 216/2020 for the offence punishable under Sections 417, 420 of the Indian Penal Code registered with the Police Station Sironcha, Tahsil Sironcha, District Gadchiroli as regards to the petitioner Mr. Firoz Khan Khasim Khan only.

10. Inform concerned accordingly.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Gohane

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signed by
JITENDRA
BHARAT
GOHANE
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