

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

CRIMINAL WRIT PETITION NO. 261/2023

(Sudhakar S/o Bhaurao Niwate & ors. Vs. State of Maharashtra & ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. D. Hajare, Advocate for petitioners.
Mr. V. A. Thakare, APP for respondent No.1/State.

CORAM: VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.

DATED : 12/04/2023.

Heard.

2. It is petitioners' grievance that the Police have not properly registered the First Information Report ('FIR') and investigated the matter. The petitioner No.1 is informant who has applied to the Magistrate seeking for re-investigation. However, it was rejected. By this petition, the petitioners are seeking to set aside the order of the Magistrate and for directing re-investigation as well as further investigation.

3. At the instance of report lodged by petitioner Sudhakar dated 28.12.2018, crime has been registered against respondent Nos. 2 to 5 for the offence punishable under Sections 448, 324 read with Section 34 of the Indian Penal Code. In the FIR, Sudhakar stated about the assault made by the accused on him as well as his son Adesh. On the basis of said report, the Police investigated the matter, in which the statement of injured and some others have been recorded. There is no dispute that all the statements are in consonance with the report lodged by Sudhakar on

28.12.2018. It is petitioners' grievance that the Police did not report properly. To substantiate said contention, the petitioners have filed a copy of application dated 25.02.2019 and 13.02.2020. It is alleged that the Police did not record the FIR properly, though grave offence punishable under Sections 307, 326 and 354 read with Section 34 of the Indian Penal Code has been committed.

4. It reveals that petitioner No. 1 himself has registered FIR narrating the details of the occurrence. On that basis, investigation was carried out. Petitioner's son Adesh did not state the story otherwise, but gave statement supporting to the FIR. Medical Certificate of injured is part of charge-sheet. In the wake of said position, belated grievance about some different occurrence cannot be entertained, even after filing of charge-sheet. So far as the applicability of the provisions are concerned, it is for the Trial Court to apply the correct provisions of law. Absolutely, we do not find any reason to re-investigate the matter.

5. In view of above, petition stands disposed of. The Investigating Agency is at liberty to carry further investigation in terms Section 173(8) of the Code of Criminal Procedure, if they deem fit.

6. The petitioners are at liberty to approach the Magistrate for alteration penal provisions, which shall be dealt in accordance with law.