



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL WRIT PETITION NO. 1403 OF 2022

VITTHAL GOPA JADHAV

VERSUS

VINAYAK CHANDAR RATHOD AND OTHERS

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Advocate for the Petitioner : Mr. Avinash R Borulkar.

APP for Respondents: Mr. N D Batule

CORAM : Y. G. KHOBRADE, J.

Dated : 03 December, 2024

PER COURT :-

1. Leave granted to invoke Section 482 of the Criminal Procedure Code in addition to Article 226, 227 of the Constitution of India. The necessary amendment be carried out within a period of two weeks from today in cause title of the Petition.
2. Heard, Mr. A R Borulkar, the learned Counsel appearing for the Petitioner at length and the learned APP for Respondent No.6.
3. By the present Petition, the Petitioner prayed to quash and set aside the impugned order dated 19.07.2022 passed by the learned Additional Sessions Judge, Bhokar, below Exh. No.1 in Criminal Revision Application No. 01/2021 thereby confirming the order dated 01.02.2021 passed by the learned Judicial Magistrate

First Class, Bhokar in Miscellaneous Criminal Application No.20/2021.

4. On face of record it depicts that, on 04.11.2020, the Petitioner lodged a Non Cognizable Report with Bhokar Police Station for the offences under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code. The Petitioner alleged that, on 03.11.2020 at about 09.00 pm, when he and his family members were having conversation at their house, at that time, Respondent Nos. 1 to 5 visited there and told him as to why his personal bullock-cart was taken from their field and why he was assaulted with fist and blows. According to the Petitioner, the Respondent No.4 Gulab Hari Rathod assaulted him with stick on his head and chest. So also, other accused assaulted him with fist and blows, due to which he sustained invisible injuries. So also, all of the accused issued life threats to him. However, the Police registered Non Cognizable complaint. Therefore, the Petitioner filed a proceeding bearing Misc. Criminal Application No. 20/2021 and prayed for inquiry under Section 156(3) of the Criminal Procedure Code for the offences under Sections 395, 294, 323, 504, 506 read with Section 34 of the Indian Penal Code.

5. On 01.02.2021, the Learned Judicial Magistrate First

Class, Bhokar passed an order holding that the Applicant is well versed with the facts which occurred with him and the Applicant is having right to claim any other relief conferred to him by the law. But the facts do not warrant investigation in the said incident by the Police and rejected the application. The Petitioner made an exaggerated statement in complaint that, all the accused persons took out Rs.5060/- from his pocket and they assaulted him and issued life threat.

6. On 19.07.2022, the learned Revisional Court passed the impugned order taking into consideration the ratio laid down in case of **Vinubhai Malaviya Vs. The State of Gujarat**, in Criminal Appeal No.478-79, wherein it has been held that, the Magistrate is empowered to direct further investigation either prior to or after taking cognizance of offence till framing of the charge. However, the dispute between the Petitioner and the Respondents appears to be of civil nature and the facts arising in the present matter does not warrant further investigation by the Police and dismissed the Revision.

7. Needless to say that, the present Petitioner visited Bhokar Police Station on 04.02.2020 and orally reported that Respondent Nos. 1 to 5 visited at his house at about 09.00 pm

and they assaulted him with fist and blows. So also, Respondent No.4 Gulab Hari Rathod assaulted him with stick on his head and chest, however, no any visible injury was noticed by the Police. If really there could have been any such injury, the Police certainly could have referred the Petitioner for hospitalization. Thereafter, the Petitioner filed a Misc. Criminal Application No. 20/2021 and first time he made an exaggerated statement about snatching of amount of Rs.5060/- by the accused persons.

8. The dispute between the Petitioner and the Respondents appears to be on account of taking the bullock cart from their field. The Petitioner has not disclosed names of any other witnesses except his family members though said incident occurred at about 09.00 pm in the village, when the neighbours were present in their respective houses. Therefore, I do not find that such incident is required to be investigated by the Police under Section 156(3) of the Criminal Procedure Code. Therefore, I do not find any merit in this case. Hence, Criminal Writ Petition is dismissed.

(Y. G. KHOBRADE, J.)