



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL APPLICATION NO.4231 OF 2024

Manindersingh Lobhsingh Kadewale

.. Applicant

Versus

1. The State of Maharashtra
2. Pandurang s/o Ramji Gore

.. Respondents

...

Mr. Ambar S. Barlota, Advocate for Applicant.
Mrs. P. R. Bharaswadkar, APP for Respondent No.1/State.

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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

DATE : 15th OCTOBER 2024

ORDER :

. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the FIR vide Crime No.120 of 2024 registered with City Chowk Police Station, District Aurangabad for the offences punishable under Sections 353, 179 read with Section 34 of Indian Penal Code, under Section 4 punishable under Section 25 of the Indian Arms Act and under Section 135 of the Maharashtra Police Act.

2. Heard learned Advocate for the applicant and learned APP for respondent No.1.

3. The main reliance of the applicant appears to be on the CCTV footage of the CCTV's those are installed in Gulmandi Chowk, which is stated to be installed by the State and it is under the control of the Commissioner of Police, Aurangabad. The applicant states that he has seen the CCTV footage and it demonstrates that except him, who had swung lathi, three other individuals had swung the sword, still it is stated in the FIR that the present applicant had swung the sword. The applicant also states that he had applied for the CCTV footage under Right to Information Act and then tried to produce it before the investigating officer stating that he is not that Sardar, who swung the sword, who is appearing in the CCTV footage. According to the applicant, he is the scapegoat and falsely implicated. The applicant has also prayed for submission of the CCTV footage in pen-drive before this Court.

4. With the limited extent, we had orally directed learned APP to get instructions from the investigating officer, as to whether he had seen the said CCTV footage. Today, the investigating officer Mr. Arjun D. Kadam is present before this Court and upon his instructions, learned APP is making statement that the investigating officer has seen the said CCTV footage.

5. The important point to be noted is that the matter is still under investigation and it will not be appropriate to interfere in the investigation at the behest of an accused. Learned Advocate for the applicant is relying upon the decision in ***Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, [2013 AIR SCW 784]***, wherein it has been held that :-

“The exercise of power to quash proceedings against accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges i.e. stages before the commencement of the actual trial would have far reaching consequences, inasmuch as, it would negate the prosecution’s/complainant’s case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 of the Cr.P.C. the High Court has to be fully satisfied, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusation levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or

alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the Court, and secure the ends of justice.

The Court delineates the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C. :

- (i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?
- (ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e. the material is such, as would persuade an unreasonable person to dismiss and condemn the factual basis of the accusations as false.
- (iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant
- (iv) Step four, whether proceeding with the trial would result in an abuse of process of the Court, and would not

serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C.”

6. Certainly, we are guided by these directions, however, since it is an electronic evidence, it cannot be so accepted in an application under Section 482 of the Code of Criminal Procedure, because it requires proof. Under such circumstance, at this stage, we do not find this to be a fit case where the FIR can be quashed, however, we dispose of this application by giving directions to the investigating officer that he may consider the CCTV footage, which the applicant intends to indicate and also consider the other evidence before coming to a definite conclusion.

7. Accordingly, the application stands disposed of.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm