



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1601 OF 2023

**MUKUND KONDIBA VAIRAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for the Petitioner : Mr. Dixit Satyajeet S
APP for Respondents/State : Mr. V.M. Jawre
Advocate for Respondent No.2 : Mr.Sudhir Akhade h/f Mrs.Sonawane
Sunita G.

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 2 APRIL 2024

PER COURT :

. Heard both the sides finally.

2. The petitioner is seeking quashment of Crime No.901/2022 registered with Sangamner City Police Station, Ahmednagar, consequent charge sheet no.281/2022 and RCC No.162/2023 pending before the Judicial Magistrate First Class, Sangamner.

3. The FIR has been lodged by the respondent no.2 having been told by his nephews who were sleeping in the farm house about somebody having burnt the entrance door in the night when they were sleeping on the upper floor. Since there has been a long standing dispute, as is mentioned in the FIR and the statements of the witnesses, wherein, the petitioner has been objecting to the construction of the farm house, a

suspicion was raised pointing out finger at the applicant as the author of the crime. The crime was registered. Statements of the witnesses have been recorded, who have in unison stated about merely having entertained the suspicion because of the previous conduct of the applicant.

4. Needless to state that suspicion howsoever strong cannot take the place of proof. There is absolutely dearth of any material to attribute the petitioner with the alleged crime. The conduct would be relevant under Section 8 of the Evidence Act provided there is some material and only as a corroborative circumstance. In the absence of any material showing that the petitioner had set the entrance door on fire, it would be an exercise in futility as contemplated in the matter of **State of Haryana and Ors. Vs. Bhajan Lal and Ors.**, AIR 1992 SC 604, to allow the petitioner to face the prosecution.

5. The writ petition is allowed.

6. FIR bearing Crime No.901/2022 registered with Sangamner City Police Station, Ahmednagar, consequent charge sheet no.281/2022 and RCC No. 162/2023 pending before the Judicial Magistrate First Class, Sangamner are quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]