

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1102 OF 2022

WITH

INTERIM APPLICATION NO. 919 OF 2024

Rekha P. Nahar

...Petitioner

Versus

The State Of Maharashtra And Anr.

...Respondents

AND

CRIMINAL WRIT PETITION NO. 1095 OF 2022

IN

INTERIM APPLICATION NO. 921 OF 2024

Rekha P. Nahar

...Petitioner

Versus

The State Of Maharashtra And Anr.

...Respondents

....

Ms. Rekha P. Nahar, Petitioner in person.

Mr. Sadanand Shetty a/w Ms. Snehal Khairnar, Ms. Sharanya S.
and Mr. Yogendra Singh, Advocate for the Respondent No. 2.

PSI Mr. Mahesh Sawant, Goregaon Police Station present.

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CORAM : PRAKASH D. NAIK, &
: N. R. BORKAR, JJ.
DATE : 16th APRIL, 2024.

P.C.:

1. The Petitioner has invoked inherent powers of this Court under Section 482 of Code of Criminal Procedure Code (“Cr.P.C.”) challenging the First Information Report bearing No.671 of 2021 registered with the Bangur Nagar Police Station on 18th November, 2021 for the offences punishable under Sections 447, 452, 504, 506 of the Indian Penal Code.

2. The brief allegations spelt out in the First Information Report are as under :-

(i) The complainant is conducting business in the name of Text Service Private Limited at 811, 8th Floor, Parm Spring Building, D-Mart, Malad, West Mumbai. There are 5 Employees working in the Company. The office of the company is open from 9.30 a.m to 6.30 p.m.

(ii) On 18/11/2021 at 9.00 a.m. the complainant reached her office. The other employees also joined the office.

(iii) At 10.45 a.m. the wife of the old Associate of the Company Pinkesh Nahar entered into the office of the complainant. The complainant came out of the cabin. The Accused started talking loudly and demanded key of godown. The Complainant told her that she does not have any key. The Accused kept on shouting and questioned her as to how she could enter the office without permission and she should leave the office.

(iv) The Accused refused to leave the premises and kept on demanding key. The employees of Complainant were frightened. The complainant followed the Accused in cabin and told her to leave the office. The Accused demanded key and threatened the complainant. She kept her legs on the chair.

(v) The Accused used abusive words and kept on searching the drawer of the table for key.

(vi) The Accused threatened the complainant. She recorded video. She threw the articles lying in the office. The complainant gave call to police. Police reached the spot. The Accused left the office.

(vii) The complainant approached the police. Her complaint was recorded as N.C.

(viii) The husband of the Accused is conducting business of Commodity Trading. The Complainant knows her since last 5 to 6 years. Presently he is conducting business at London. The Accused is in India. The Complainant met her two years ago.

3. Investigation was conducted and the report was submitted to the police. In the report it was stated that, the complainant had alleged that the Accused had entered in the office of complainant without permission and demanded key. She shouted at complainant. She sat on the chair in the cabin by keeping her foot on the table, abused and threatened the complainant. Investigation revealed that the incident had occurred in 'X' Service Private Limited Company. The said company belongs to the husband of the

Accused and she has right to enter the premises and she had visited the premises to demand key of godown where her belongings were lying. Hence, there was no intent to visit the premises for committing offence. While N.C. was pending it was necessary to investigate the said complaint on obtaining permission from Court in accordance with Section 155 (2) of Cr. P. C. However, on the next day complaint was taken and F.I.R. was registered. It is opined that Sections 447 and 452 are required to be dropped and it would be necessary to make N.C. final for offence under Sections 504, 506 of IPC. However, the FIR was registered. Sections 447 and 452 of the IPC are dropped and it is opined that N.C. final has to be approved.

4. The report also indicate that the petitioner was arrested on 10/03/2022. Report is submitted for offences under Sections 504, 506 IPC and Sections 447 and 452 stands deleted. On approving N.C. final the Accused be discharged from the proceeding under Section 169 of Cr.P.C.

5. The alleged incident had occurred on 18/11/2021. The FIR was registered on 19/11/2021. From the tenor of FIR it is apparent that Accused had visited the Subject Office for demanding key. The Complainant had approached the police and NC complaint

was registered. Surprisingly the FIR was registered on the basis of same allegations.

6. After conducting investigation, it was found that Sections 447 and 452 are not tenable. It is relevant to note that the Petitioner was arrested by invoking the said offences and after investigation the said charges were proposed to be dropped. Sections 504 and 506 IPC were maintained.

7. The Petitioner has appeared in person. The contention of the Petitioner is that the allegations at the most, constitute Non-cognizable offence and without directions of the Magistrate under Section 155 Cr.P.C, investigation could not be conducted. The Petitioner is wife of Pinkesh Nahar. He was Associated with informant and her family. After registration of the N.C. Complaint under Sections 504 and 506 of the IPC, the FIR was registered after 24 hours. The Offences under Sections 504 and 506 of the IPC are not made out. In another complaint registered against the Petitioner vide CR No.863 of 2021, 'C' summary report was filed.

8. The Petitioner was subjected to arrest. It was complete misuse of police powers. None of the offences are made out against the Petitioner. The FIR was registered out of vendetta.

9. The learned Advocate for Respondent No.2 and learned APP submitted that the Accused had entered into the office of complainant. The Accused threatened and abused the complainant. The Accused had indulged in the act resulting breach of public place. The Accused has used abusive words, offences are made out, the proceedings need not be quashed. The Respondent No.2 filed Affidavit-in-reply opposing the Petition.

10. The Accused had allegedly entered into the office occupied by the Complainant and committed the alleged acts. The complainant approached on the same day and lodged the complaint alleging that the Accused demanded key of the godown and threatened the complainant. Non-cognizable complaint was registered under Sections 504, 506 IPC. Surprisingly in respect to the same incident, FIR was registered on 19/11/2021. There is improvement in the version of the complainant. There was no reference to abuses & several allegations including abuses made by the the complainant were not appearing in N.C. complaint. The FIR was registered under Sections 447, 452, 504 and 506 IPC. The registration of the FIR was in breach of Section 155(2) of Cr. P.C.

11. The investigation revealed that the husband of the Accused has right in the office premises. Shockingly the Petitioner was arrested and subsequently the charges under Sections 447 and 452 are proposed to be dropped vide Section 169 of Cr.P.C. By no stretch of imagination it can be seen that any offences are made out.

12. The police has submitted report for declaring the case as of N.C. final, for offences under Sections 504 and 506 of IPC, we do not find any iota of evidence even to establish the charge under Sections 504 and 506 of IPC. There was improvement in FIR. The N.C. complaint is silent about various acts referred to in FIR.

13. In the circumstances the First Information Report and consequential proceedings are required to be quashed.

ORDER

- (i) Criminal Writ Petition No. 1102 of 2022 is allowed.
- (ii) The First Information Report Bearing No. 671 of 2021, registered with the Bangur Nagar Police Station and all consequential proceedings are quashed and set aside.
- (iii) Interim Application No.919 of 2021 are disposed off.
- (iv) Writ Petition No.1102 of 2022 stands disposed off.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)