

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2908 OF 2022

Mr. Jignesh S/o. Sumatilal Mehta
Adult, Indian Inhabitant, aged about 53 years,
Residing at 601, Gala Residency, Haji Bapu
Road, Malad (e), Mumbai- 400097. .. Petitioner

Vs.

1. The State of Maharashtra
Through Inspector In charge, Dindoshi
Police Station, To be served through Public
Prosecutor, High Court (A.S.) Mumbai.

2. Mr. Divakar Hariram Mishra, age 55 years,
Adult, Indian Inhabitant, Occ. Watchman,
Resident of Room No.3, Milap Welfare Society
Azami Nagar, Marve Road, Malad (West),
Mumbai 400 064 .. Respondents

Mr. Ashok M. Saraogi for Petitioner.
Mr. Vaibhav V. Ugle for Respondent No.2.
Ms. Mahalakshmi Ganpathy APP for State.

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**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

RESERVED ON : 13th DECEMBER, 2023.

PRONOUNCED ON : 9th JANUARY, 2024.

JUDGMENT: [PER- SHYAM C. CHANDAK, J.]

1) Present Petition is filed under Article 226 of the Constitution of India seeking to quash F.I.R. being C.R. No.810 of 2022, registered at

Dindoshi police station, Mumbai under Sections 506, 365 read with 34 of the Indian Penal code.

2) Heard Mr. Saraogi learned Advocate for the Petitioner, Ms. Ganpathy learned APP for the Respondent No.1-State and Mr. Ugle, learned Advocate for the Respondent No.2.

3) Rule. Rule made returnable forthwith and with the consent of learned Advocates taken up for final hearing.

4) The facts giving rise to this Petitioner can be summarised as under :

4.1) That, on 2nd July, 2022, Respondent No.2 filed a report with Respondent No.1-police station, wherein he has stated that Parshva Jignesh Mehta *alias* Padmavijay Maharaj is son of the Petitioner. On 1st July, 2022 at about 10.00 p.m. Parshva Jignesh Mehta was sleeping in a room on the second floor, at Shantinath Jainsangh Temple. Respondent No.2 was guarding at the said room. On 2nd July, 2022 at about 2.00 a.m. the Petitioner with three other persons came there. Said three persons had covered their faces by cloth. Two of the said three persons came at Respondent No.2. One of them caught hold the hands of Respondent No.2 behind his back, other one snatched his mobile phone and by removing its sim card threw it aside. One of them threatened the Respondent No.2 that, 'if he shouts, he would kill him'. Then the Petitioner and one of his associate

forcibly abducted Parshva Mehta in an ambulance stating that he is unwell. Hence, Respondent No.2 lodged the report pursuant to which the impugned F.I.R. came to be registered against the Petitioner.

5) Learned counsel for the Petitioner submitted that, since before the incident the Petitioner's son Parshva Mehta had been diagnosed as mentally ill and was under treatment for the same. In the meantime, Parshva Mehta started residing in the said temple and he was wearing white cloths to show as if he is a '*Muni*'. Therefore, by giving an advance intimation to the police, on 2nd July, 2022 the Petitioner went to the said temple and removed Parshva Mehata in an ambulance. Thereafter, the Petitioner admitted his son to a rehabilitation Centre *i.e.* Sunshine Wellness Centre, at Vasai. However, the persons interested in making the Petitioner's son as '*Muni*', falsely lodged the F.I.R. to accept him as a '*Muni*'. Thus, the Petitioner is innocent and the said F.I.R. is frivolous, vexatious and malicious. In the meantime, the matter is settled. Hence, the F.I.R may be quashed.

6) Learned APP fairly submitted that, in view of the Affidavit-in-Reply of Respondent No.2, appropriate Order may be passed.

7) On 7th July, 2023, learned APP submitted a Medical Certificate of Parshva Mehta, issued by Sunshine Wellness Centre. The certificate noted that, "Petitioner's son Parshva Mehta is suffering from disturbed mental health manifested by confabulation state of mind, impulsive behaviour,

suicidal threatening, isolated-withdrawn behaviour, no control over emotions, histrionic, narcissistic behaviour, wondering behaviour. At present the patient's state of mind is not stable hence not able to give statement and orientation it may cause emotional disturbance and stress to patient which may manifest into suicidal thoughts, aggression". Thereafter, as noted in the Order of this Court dated 1st August, 2023, the Investigating Officer recorded the statement of Parshva Mehta so also the doctor. It was also noted that there are certain improvements in the health condition of Parshva Mehta and he needs further treatment.

8) Thereafter, the police submitted a report dated 14th July 2023 through APP, which states that, in the year 2013, Parshva Mehta had jumped in front of a train and attempted to commit suicide. As a result, he had suffered serious injury to brain. Thereafter, he was in coma. Since last one year Parshva Mehata has been taking treatment at Sunshine Wellness Centre. His mental state was very weak.

9) On 12th July 2022, the Respondent No.2 gave a letter to Respondent No.1-Dindoshi police station wherein he has stated that the F.I.R. has been lodged by him out of misunderstanding on his side and hence, he is withdrawing the F.I.R. In the Affidavit-in-Reply the Respondent No.2 has specifically stated that this matter has been amicably settled between the parties. In view of the said settlement, he has addressed the

letter dated 12th July, 2022 to the concern police. In the affidavit-in-reply also the Respondent No.2 has stated that, the F.I.R. was lodged by him out of misunderstanding, now the matter has been settled and hence he has no objection to quash the F.I.R.

10) In view thereof, continuation of the impugned F.I.R. would be abuse of process of law. Hence, the said F.I.R. is liable to be quashed and is accordingly quashed and set aside.

11) The Petition is allowed in the above terms. Rule is made absolute.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)