

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

CRIMINAL WRIT PETITION NO.5149 OF 2021

Rohit Suresh Kamble ...Petitioner
Versus
The State of Maharashtra & Anr. ...Respondents

**WITH
INTERIM APPLICATION (St.) NO.6719 OF 2024
IN
WRIT PETITION NO.5149 OF 2021**

Sangita Prakash Kamble ...Applicant

IN THE MATTER BETWEEN

Rohit Suresh Kamble ...Petitioner
Versus
The State of Maharashtra & Anr. ...Respondents

....

Mr. Abhishek Lalji Tripathi for the Petitioner.

Mr. Ujjwal Gandhi for Applicant in Interim Application.

Ms. Rutuja Ambekar, A.P.P. for the Respondent – State.

....

**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 01st APRIL, 2024.

P.C.:

1. The Petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India for seeking issuance of Writ of Mandamus and direction to Respondent No.4 to

forthwith register FIR against the accused for the offences under Sections 326, 354, 354-A, 355, 397, 447, 450, 448 & 509 of Indian Penal Code (for short “IPC”).

2. The Petitioner contends that on 21.03.2020, the Petitioners uncle Prakash Kamble along with his family consisting of Sangita Kamble, Tilottama Kamble, Sachin Bhadarge, Siddharth Bhadarge, Sudam Bhadarge, Rahul Bhadarge, Subhash Kamble and Kiran Kamble trespassed on to the Petitioner’s personal property without the consent of Petitioner and with an intention to commit murder assaulted the Petitioner, his mother, brother and sister with spade bricks, knife and and hammer. The mother of Petitioner and elder brother suffered grievous injury/hurt at the instance of accused. The medical record of the injured person is annexed to the Petition. The accused Tilottama Kamble robbed Petitioner’s cell phone worth Rs.1,30,000/-. This incident was recorded in C.C.T.V. footage of the area. The accused outraged the modesty of Petitioner’s mother and sister and tore their clothes and manhandled them and attempted to disrobe them. The Petitioner and his family members approached Powai Police Station. Their grievances were not attended.

3. The Assistant Police Inspector was not present and therefore the Petitioner was constrained to approach Deputy Commissioner

of Police, in-charge of Powai Police Station. However, the officer in-charge of the Police Station refused to register FIR. They were informed that Mr. Prakash Kamble is regular visitor of Powai Police Station and without hearing him they will not register offence against him. The Respondent No.4 was not inclined to register FIR and directed the Petitioner to drop the names of Prakash Kamble and Tilottama Kamble and then the FIR would be registered. The Petitioner approached the Deputy Commissioner of Police and narrated the facts and showed video of C.C.T.V. recording. Directions were issued to take cognizance of the complaint of Petitioners and his family members. The Police failed to discharge the duty. The Petitioner had visited the Powai Police Station on several occasions.

4. The Petition was heard on 22.03.2024. Vide order dated 22.03.2024 it was recorded that the Investigating officer will view the C.C.T.V. footage and to initiate appropriate action. The Petition was adjourned to 01.04.2024.

5. Learned A.P.P. submitted that pursuant to order dated 22.03.2024, the C.C.T.V. footage was seen by the officer and FIR has been registered on the complaint of Petitioner with Powai Police Station vide C.R. No.305 of 2024 on 30.03.2024 for offences under Sections 143, 147, 149, 323, 324, 403, 504 & 506 of IPC.

6. The copy of FIR is placed on record. On perusal of FIR it is apparent that the FIR was registered against Prakash Kamble, Shalan Kamble, Tilottama Kamble, Sachin Bhadarge, Subhash Kamble, Kiran Kamble, Siddharth Kamble and Sudam Bhadarge. The contents of the FIR indicate that the grievance of the complainant as recorded in the FIR is that on 21.03.2020 while the family of complainant was at home, on account of dispute relating to C.T.S. No.49, Prakash Kamble, Shalan Kamble, Tilottama Kamble, Sachin Bhadarge, Siddharth Bhadarge, Sudam Bhadarge, Subhash Kamble and Kiran Kamble in connivance with each other entered the house of the complainant and assaulted the Petitioner, his sister and brother with fist/kick blows, fawada and brick. The accused Tilottama Kamble took the cell phone of the Petitioner and kept it in her purse.

7. Learned Advocate for the Petitioner submitted that, though the FIR has been registered on 30.03.2024, no offences are registered under Sections 354 & 354-A of IPC. The allegations in respect to the incident of outraging of modesty were not recorded. Serious offences were excluded. Hence, directions be issued to register the said offences. The complaint dated 24.03.2020 refers to the incident of outraging the modesty.

8. Interim Application (St.) No.6719 of 2024 is preferred by

Sangita Kamble seeking intervention in the present Petition. The intervenor had contended that there is dispute regarding property between her husband and brother-in-law. The proceedings are pending before the civil Court. The intervenor was threatened by dire consequences. Complaints were filed by intervenor against Rohit Kamble and others. The intervenor's husband was assaulted by Rohit Kamble and others. The intervenor and her daughter were also assaulted. Sugam Bhadarge was assaulted with knife and intervenor and others approached the police. No complaint was taken. The intervenor filed a complaint with the Police. The intervenor had preferred Writ Petition (St.) No.6792 of 2024 before this Court seeking directions to register the FIR against Rohit Kamble, Suresh Kamble, Shaila Suresh Kamble, Sneha Kamble, Rajesh Kamble and others.

9. Learned Advocate for the Petitioner submitted that the intervenor has no locus to intervene in this proceedings. The FIR has been registered by excluding series of offences. Appropriate directions be issued to the concerned Police Station to register the offences which were excluded in the FIR.

10. The statement of Rohit Suresh Kamble (Petitioner) was recorded on 30.03.2024 and the FIR has been registered against eight persons vide C.R. No.305 of 2024.

11. We have perused the statement in the FIR and it is apparent that the offences are in consonance with contents of the statement of the complainant. The investigation is in progress. The relief sought in this Petition was to register FIR. The FIR has been registered. No case is made out for issuing further directions as contended by the Petitioner.

12. In the aforesaid circumstances, the Petition is required to be disposed off as the FIR has been registered against the accused.

ORDER

- i) Criminal Writ Petition No. 5149 of 2021 is disposed off as FIR dated 30.03.2024 has been registered with Powai Police Station, Mumbai vide C.R. No.305 of 2024.
- ii) Interim Application stands disposed off.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)