

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3836 OF 2022

Prakash Hotchand Bhatia

...Petitioner

Versus

1. The State of Maharashtra

2. Mrs. Urmila Prakash Bhatia

...Respondents

....

Ms. Swapna P. Kode, Advocate for the Petitioner.

Ms. Urmila P. Bhatia Respondent No.2-in person.

Mrs. M. M. Deshmukh, APP for Respondent-State.

PSI Rohidas Omase and Bajrang Desaid, Samata Nagar Police Station are present.

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

DATE : 4th MARCH, 2024

P.C.:-

1. The Petitioner challenges the FIR dated 24th August 2022 registered with Samata Nagar Police Station, vide C.R. No. 1202 of 2022 for offence punishable under Section 380 of the Indian Penal Code, 1860. The FIR was registered at the instance of Respondent No.2.

2. The brief allegations in the FIR are as follows:-

The complainant had lodged the FIR with Samata Nagar Police

station on 4th October 2020 vide C.R. No. 1201 of 2020 for offences under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code, 1860. In the said FIR, the complainant's husband, father-in-law and step daughter are accused. They were granted anticipatory bail by the Court of Sessions. The Court had permitted installation of CCTV camera in the hall and kitchen for the safety of the complainant. Hence, she had installed about four CCTV cameras on 13th November 2021. The camera which was installed in the hall was switched off. The direction of the camera installed in the bedroom was diverted. The complainant has footage of the recording in the CCTV cameras. The complainant had kept her articles in the house such as hard disk, gold ring, artificial jewellery, suitcase etc. The driving license, pancard and other documents of complainant's daughter were also kept in the house. Other articles were also lying in the house. Under the orders of the Court, the complainant visited the house. The petitioner changed the lock of the room. The complainant checked her belongs and it was found that the articles belonging to the complainant were stolen. There was breach of the order of the Court.

3. Learned Advocate for petitioner submitted that, the offence is false. On account of strained relationship between petitioner and respondent No.2, the impugned FIR has been registered. The allegations are afterthought. The complainant has lodged several complaints against

petitioner and others. The FIR has been lodged out of vendetta. The complainant has been repeatedly lodging the FIR with an intention to cause harassment to the petitioner. The petitioner is not involved in committing theft of any articles. The complainant had preferred an application before the Apex Court seeking certain relief. The said application is pending.

4. Learned APP submitted that, the investigation is completed. CCTV footage shows that, the articles were seen in the premises. Subsequently, it was noticed that the articles were missing.

5. Respondent No.2 submitted that, the petitioner had committed the breach of order of the Court. Valuable articles were taken away. The petitioner had changed the lock of the room. There is sufficient evidence to indicate that, the petitioner had committed theft of the article. This is not the stage to quash the proceedings. The investigation revealed that, there is sufficient material to show the involvement of the applicant in the crime. The respondent No.2 has relied upon the affidavit in reply and submitted that, the contents of the reply and the documents annexed to the reply would show the involvement of the petitioner in the crime.

6. Investigation is in progress. Investigating Agency has found incriminating evidence. We have found prima facie incriminating evidence against the petitioner. The CCTV footage show that, the existence of the

article in the premises which was subsequently found missing. The FIR cannot be quashed. Investigating Agency must be given an opportunity to investigate the crime. Prima facie, there are strong circumstance against the petitioner. FIR cannot be quashed at the primary stage.

7. In the light of aforesaid circumstances and investigation conducted by police, we are not inclined to quash the impugned FIR.

ORDER

- (i) Criminal Writ Petition No. 3836 of 2022 is dismissed.
- (ii) Investigating Agency is at liberty to file charge-sheet on completing investigation.
- (iii) Writ Petition stands disposed off.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)