

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1698 OF 2024

Mr. Rupesh Rajendra Agarwal & Anr.Petitioners

Vs.

The State of Maharashtra & Anr.Respondents

Mr. Anand Mishra i/b Mr. Ashok M. Saraogi for the Petitioners.

Mr. Vinod Chate, A.P.P. for the Respondent-State.

Mr. Budhbhushan Rajratna h/f Mr. Qureshi Zaid Anwar for Respondent No. 2.

Mr. Santosh Sonawane, Sr.PI. a/w Ms. Sukeshini Jadhav, A.PI., Kondhva Police Station present.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 27th JUNE 2024

P.C.:-

1) Learned A.P.P. on instructions submitted that, in pursuance of Order dated 3rd May 2024, Mr. Amitesh Kumar, Commissioner of Police, Pune City, Pune after perusing the entire record of investigation of the present case, has filed a detailed Affidavit dated 6th June 2024, duly affirmed before a Notary Public. We have read the said Affidavit and are satisfied with the same.

2) It appears from the record that, a statement was made by the Petitioners on 3rd May 2024 and recorded in the Order of same date that, at the instance of the Respondent No. 2, the Watchman of said building wiped out blood stains on the said gate or pillar and the said fact has been recorded in the CCTV Camera, which is fixed in the precincts of said society.

3) Learned A.P.P. on instructions from Mr. Santosh Sonawane, Sr.P.I. and Ms. Sukeshini Jadhav, A.P.I. attached to Kondhva Police Station, who are present in the Court, submitted that the investigation of the present crime is completed and as has been stated by the Commissioner of Police in his Affidavit in paragraph nos. 12 and 13 thereof that, the injured during the scuffle fell on the pillar due to which the said injury had occurred and therefore *prima-facie* offence under Section 326 of the Indian Penal Code, 1860 ("I.P.C.") is not made out and it is accordingly dropped. That, a charge-sheet under Sections 323, 338 & 506 read with 34 of the I.P.C. is ready and will be submitted before the Court of competent jurisdiction within a period of one week from today. The said statement is accepted.

4) In view of the decision of Hon'ble Supreme Court in the case of *Manik B. v/s. Kadapala Sreyes Reddy & Anr.*¹ and more particularly para no. 8 thereof, the Petitioners are having substantive alternate remedy by way of filing an Application for discharge as contemplated under the provisions of Cr.P.C. before the Trial Court.

5) By reserving the alternate remedy in favour of the Petitioners, Petition is disposed of.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

1. MANU/SCOR/113641/2023.