

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1822 OF 2024**

Nikhil Vijay Vengurlekar

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Vishal Deshmukh for Petitioner.

Mr. V.N. Sagare, A.P.P. for Respondent No.1-State.

PSI Mr. Umaji Kadam, Dindoshi Police Station, Mumbai.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.****DATE : 1st August 2024****P.C. :**

1) Present Petition is filed under Article 226 of the Constitution of India for quashing of C.R. No.208 of 2023, dated 22nd March 2023, registered with Dindoshi Police Station, Mumbai under Sections 354, 323, 504, 406 read with Section 34 of the Indian Penal Code.

2) The Petition was called out for hearing in the morning session when at the outset, learned A.P.P. on instructions from Mr. Umaji Kadam, Police Sub-Inspector, attached to Dindoshi Police Station, Mumbai, submitted that, investigation of present crime is completed and chargesheet is already filed on 12th June, 2024.

3) We therefore considered it necessary to peruse the chargesheet.

3.1) The victim herein is a woman.

3.2) Upon a question raised by this Court to the Investigating Officer Mr. Umaji Kadam, to point out to us the seizure of the clothes panchnama of the victim, it was informed to us that, the said panchnama is not drawn. In the F.I.R., at least at two places, the victim has categorically stated that, the accused Nikhil Vengurlekar touched her inappropriately and torn her clothes. It is the reason, Section 354 of the I.P.C., is applied to present crime. According to us, non-effecting the seizure of clothes panchnama of victim is a fundamental *lacuna* in the investigation. Upon further query by this Court, Mr. Umaji Kadam was unable to state, as to why he did not effect panchnama of seizure of clothes of the victim and proceeded to file chargesheet. According to us, the said panchnama was the most important document in the chargesheet to corroborate the version of the victim, whether her clothes were infact torn or not.

4) We have also perused the Case Diary of the present crime. The Investigating Officer has not recorded any reason in the Case Diary No.1 dated 22nd March 2023, regarding non-recording of the panchnama of seizure of clothes of the victim, though the victim had been to the Police Station immediately after the alleged assault on her.

5) It *prima facie* appears to us that, either the Investigating Officer is oblivious about the basic tenets of investigation or has deliberately kept *lacuna* in it to allure it to the benefit of the accused.

5.1) Prima facie it appears to us that, the investigation of the present crime is not commensurate with the claim generally made by the State Administration that, offences against women are being viewed seriously and investigated promptly.

6) Before passing further comments, we deem it appropriate to bring to the notice the aforesaid facts and direct the Commissioner of Police, Mumbai, to file his detailed Affidavit to the Petition.

6.1) We direct the Commissioner of Police not to delegate his powers to any subordinate Officer(s), while filing the Affidavit.

6.2) We expect from the Commissioner of Police to go through the record of investigation minutely and if he forms the same opinion as we have formed and recorded herein above, to adopt appropriate remedial measures under the law against all the concerned.

6.3) This be done within a period of three weeks from today.

7) Stand over to 20th August 2024.

(DR. NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

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Date: 2024.08.09
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