



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 283/2024

1. Smt. Rupali Bhrambe w/o Kalpesh
Bharambe, R/o. Flat No. 301, Shree
Radhe Apartment, Pannase Layout,
Indrapastha Nagar, Nagpur-440022.
2. Mr. Kalpesh Panjabrao Bhrambe,
R/o. Flat No. 301, Shree
Radhe Apartment, Pannase Layout,
Indrapastha Nagar, Nagpur-440022.

...PETITIONERS

VERSUS

1. State of Maharashtra,
through Director General of Police,
Maharashtra near Gateway of India,
Fort, Mumbai.
2. Commissioner of Police, Nagpur.
Maharashtra, Nagpur City, Police
Bhawan, Civil Lines, Nagpur-440001.
3. Deputy Commissioner of Police, Nagpur
Maharashtra, Nagpur City, Police Bhawan,
Civil Lines, Nagpur – 440001.
4. Police Inspector,
Sonegaon Police Station,
Nagpur, Maharashtra.

5. Mr. Vinit Jain,
Proprietor of M/s. Ajay Industries,
Registered Office 78/46 First Floor,
Capital Chamber, Latouche Road,
Kanpur Nagar,
Uttar Pradesh – 208001.

....RESPONDENTS

Mr. Arjun V. Bobde, Advocate h/f Shubhan Shukla, Advocate a/w
Juhita Hirekhan Advocate for petitioners.
Mr. A.M. Joshi, APP for respondent Nos. 1 to 4.
Mr. Rajnish Vyas, Advocate for respondent No.5

CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI JJ..

DATE : 30.09.2024

ORAL JUDGMENT : (PER : VINAY JOSHI, J.)

Heard.

2. This petition is under Article 226 of the Constitution of India seeking following reliefs :-

“i. Issue an appropriate Writ of Mandamus directing an inquiry into illegal and corrupt acts that took place at the Sonagaon Police Station, Nagpur on 28.02.2024, and further direct the respondent Nos. 2, 3 and 4 to file an affidavit after conducting such enquiry and

ii. Issue an appropriate Writ of Mandamus directing the C.B.I. to conduct an investigation into the incident that transpired on 28.02.2024, at the Sonegaon Police Station, resulting in the total violation of the Fundamental Rights of the petitioners herein and

iii. Protect the petitioner No.1 herein from arrest pending the hearing and final disposal of the instant writ petition,

iv. Issue any other appropriate writ, order or direction which deems fit, just and proper in the interest of justice.

v. Grant any other relief and pass any suitable order, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

3. The facts in brief are that, respondent No.5 Vinit Jain has filed private complaint bearing No. 20856/2017 for the offence punishable under Sections 406, 420, 120-B of the Indian Penal Code, 1860 against the petitioners in the Court of Additional Chief Metropolitan Magistrate II Court, Kanpur, State of Uttar Pradesh. In the said criminal case, respondent No.5 allegedly managed to file a forged Vakalatnama on behalf of petitioner No.1 to mislead and

convince the Court that despite knowing pending prosecution, the petitioner is deliberately avoiding to appear before the Court at Kanpur. In the said proceeding non-bailable warrant was issued against the petitioner No. 1 and bailable warrant was issued against petitioner No.2 for non-appearance.

4. It is petitioners' contention that on 28.02.2024, respondent No. 5 Vinit Jain in collusion with the Police of Sonegaon Police Station, Nagpur came to their house and compelled petitioner No.1 to accompany to Sonegaon Police Station. It is contended that they have illegally detained her in the Police Station Sonegaon, Nagpur under pretext of execution of warrant issued by Kanpur Court. The Sonegaon Police did not show the warrant of arrest but WhatsApp print was shown. At the relevant time, none of the Police Officer from the Kanpur (Uttar Pradesh) was present for executing warrant. The petitioner No.2 being husband of petitioner No.1 rushed to the Police Station. The Sonegaon Police at the instance of respondent No.5 coerced petitioners to transfer sum of Rs. 5,00,000/- by NEFT in the account of respondent No.5 Vinit Jain. So also, coerced petitioners to issue two cheques having denomination of Rs. 5,00,000/- for settling

the pending dispute at Kanpur Court. According to the petitioners, it is totally high handed malafide action on the part of Sonegaon Police, Nagpur at the instance of respondent No.5. The petitioners have approached to the Commissioner of Police, Nagpur putting the grievance of extortion, but no cognizance was taken. In the wake of such position, this petitions is filed for aforesaid reliefs.

5. The petition is resisted by Sonegaon Police as well as respondent No.5 by filing reply affidavit. It is contended that the Commissioner of Police, Nagpur received non-bailable warrant from Kanpur Court on 27.02.2024. It was mistakenly transmitted for execution to Pratap Nagar Police Station, Nagpur. The aforesaid warrant was returned to the Kanpur Court by the Pratap Nagar Police Station since they received warrant on 15.03.2024 whilst due date was on 12.03.2024. It is contended that the petitioners at their own came to Songegaon Police Station, inquired about issuance and receipt of warrant, from Kanpur Court. The petitioners have shown their inclination to settle the matter, hence the Police called respondent No.5. Thereafter, the parties settled the dispute out of the Police Station and thus, the allegations levelled in the petition are totally

false. Respondent No.5 equally adopted the said stand by stating that he was called for settling the dispute. The petitioners at their own had transferred the money as well as issued post dated cheque. The respondent No.5, deposited cheques with his banker, but they were dishonoured. In order to create a defence in the proceeding filed for dishonour cheque, after thought, grievances has been made. Moreover, it is submitted that the Home Department, Government of Maharashtra has created a mechanism to resolve grievances against the Police by establishing District Level Police Complaint Authority under the Provisions of Maharashtra Police Act. According to the respondents, the petitioners ought to have approached said Authority for redressal of their grievance.

6. Though the petitioner made allegation about preparing forged Vakalatnama and filing in the Court of Kanpur, however the said issue does not bear relevance with the allegation levelled in the petition. The petitioners may raise said grievance before the concerned Court. The learned counsel appearing for petitioners relied on the decision of the Supreme Court in case of *D.K. Basu Vs. State of W.B., (1997) 1 SCC 416* to impress that the Supreme Court has issued

guidelines in respect of arrest or detention. The reliance is also placed the decision of the Supreme Court in case of ***Raghuvansh Dewanchand Bhasin Vs. State of Maharashtra and anr. (2012) 9 SCC 791*** to contend that in case of illegal arrest and abuse of the process of law, the Court are well empowered to award adequate compensation. These decisions would not help to the petitioners to resolve the controversy in either way.

7. It is petitioners' case that on 28.02.2024, Sonegaon Police forcibly took them to the Police Station, detained and pressurized to transfer sum of Rs. 5,00,000/- and to issue two cheques for settling the dispute. *Prima facie* it is difficult to accept that the amount has been transferred under pressure by NEFT and two cheques, one of them post-dated have been issued under pressure. One may consider said submission, if the grievance was put forwarded in the close proximity. Admittedly, though alleged serious offence of extorting Rs. 15,00,000/- occurred on 28.02.2024, the petitioner did not put grievance till 22.03.2024 to the Commissioner of Police. There is no dispute that prior to 22.03.2024, the petitioners did not put any grievance. The petitioners' learned counsel tried to explain that, in the

meantime the petitioners rushed to Kanpur Court to secure pre-arrest bail. In any eventuality, we are not prepared to accept the explanation for the reason that huge amount has been got transferred, still the petitioners did not lodge report for the period of one month. Moreover, it is not a case that they were compelled to handover cash to accept the theory of coercion. Rather it is evident that Rs. 5,00,000/- have been transferred by way of NEFT and one post dated cheque was issued. Thus, *prima facie* the said transaction indicates to be step towards settlement.

8. The copy of Roznama of the case pending at Kanpur Court is produced. It reveals that the case is pending from the year 2017 and warrants were repeatedly issued from the year 2018 onwards. In the circumstances, it is difficult to accept that after five years, abruptly the respondent No.5 has managed through Sonogaon Police to extort money. As regards to the grievance against the Police Officers, the petitioners are free to approach the District Level Complaint Authority which is a special mechanism evolved under the statute. The petitioners had also remedy to approach to the Magistrate with the grievance against respondent No.5, if no cognizance was taken by the

Police. It reveals that despite taking such action, a writ petition has been filed seeking direction against the Police to inquire into the matter as well as to direct C.B.I. to conduct inquiry. No case is made out to prima facie satisfy the allegations levelled after one month from the occurrence.

9. We see no merit in the petition, hence petition stands dismissed.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)