



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.727 OF 2023

Namdev Vyankat Zele

.. Petitioner

Versus

1. The State of Maharashtra
Through Senior Police Inspector,
Shirur Anantpal Police Station,
District Latur

2. Satywan Bansi Kamble

.. Respondents

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Mr. N. S. Kamble and Ms. M. K. Kamble, Advocate for the petitioner.
Mr. V. K. Kotecha, APP for respondent No.1/State.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 08 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present writ petition has been filed for quashing the First Information Report vide Crime No.57 of 2022 dated 18.04.2022 registered with Shirur Anantpal Police Station, District Latur as well as the proceedings in S.C.C. No.234 of 2022 pending before the learned 1st Joint Civil Judge Junior Division/Judicial Magistrate First Class, Nilanga, District Latur, for the offence punishable under Section 3 of the Official Secrets Act and Section

506 of Indian Penal Code.

2. Heard learned Advocate Mr. N. S. Kamble and Ms. M. K. Kamble for the applicant and learned APP Mr. V. K. Kotecha for respondent Nos.1 and 2/State.

3. Learned Advocate for petitioner vehemently submits that the First Information Report is false and concocted. He submits that the petitioner has parental land admeasuring 8 Acre 17 Gunthas situated at village Shirur Anantpal, District latur, out of that 30 Gunthas of land was donated to the Government of Maharashtra for proposed guest house of the Public Works Department through Tahsildar of Shirur Anantpal. The petitioner has filed multiple complaints against Mr. Bharat Ramkrushna Puni and his allies for grabbing the government land illegally as well as encroaching the land of the petitioner. Thereafter, the Tahsildar Shirur Anantpal had directed to Mandal officer of Shirur Anantpal to investigate the matter and file the report on the complaint of the petitioner. Thereafter, the in-charge of Latur Babhalgaon Police Training School contacted Mr. Aniket Gandle, who is close friend of the petitioner and asked about the soft red soil for practice of police trainee. The petitioner along with his

friend visited the land to provide the red soil to police trainee where Mr. Bharat Puri and his friends arrived at petitioner's land with axe, iron rod, wooden stick and hard iron sickle (Khurpi) and started abusing as well as pushing the petitioner outside his land. Thereafter, the petitioner went to Anantpal Police Station along with his friend to lodge the FIR against Mr. Bharat Puri and his friends under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "Atrocities Act"). At that time, the Police Inspector, Mr. Rameshwar Tat pressurized the petitioner for not filing the complaint against Mr. Bharat Puri and to settle the matter. Therefore, to expose the harassment of the police officers, petitioner started video recording from his mobile to record the harassment and use of filthy language and rough talk of Police Inspector Mr. Rameshwar Tat. Now, with ulterior motive present First Information Report has been lodged against the petitioner. Since the First Information Report itself is based on concoction and falsity, it deserves to be quashed and set aside.

4. Per contra, learned APP strongly opposed the petition and submitted that the petitioner was unnecessarily making videography and threatening the informant and other police

persons present in the Police Station.

5. The first and the foremost fact to be noted upon contents of First Information Report as well as statements of witnesses under Section 161 of the Code of Criminal Procedure that the entire episode has taken place in Police Station. Police have invoked the Official Secrets Act, 1923. Section 2 (8) of the said Act defines what is “prohibited place”. Police Station is not included in the said definition. Section 3 of the Official Secrets Act, 1923 deals with “Penalties for spying”. The said section is reproduced for convenience.

“3. Penalties for spying. - (1) If any person for any purpose prejudicial to the safety or interests of the State -

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article

or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy [or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States];

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years.”

Anything done in the police station is absolutely not included in Section 3. Under such circumstance, ingredients of the said section are not at all attracted.

6. Now, in respect of other section i.e. Section 506 of the Indian Penal Code, we are of the opinion that contents of First Information Report do speak about the criminal intimidation and we leave things to the concerned Court to see whether particulars of offence/charge needs to be framed under Section 506 of Indian

Penal Code. We also leave it to the Court concerned to see whether any other offence is transpiring taking into consideration the contents of the First Information Report and charge sheet.

7. With these observations, the writ petition deserves to be partly allowed. Hence, following order.

ORDER

I) Criminal Writ Petition stands partly allowed.

II) The First Information Report vide Crime No.57 of 2022 dated 18.04.2022 registered with Shirur Anantpal Police Station, District Latur as well as the proceedings in S.C.C. No.234 of 2022 pending before the learned 1st Joint Civil Judge Junior Division/Judicial Magistrate First Class, Nilanga, District Latur, for the offence punishable under Section 3 of the Official Secrets Act, 1923 and Section 506 of Indian Penal Code, stand quashed and set aside to the extent of offence under Section 3 of the Official Secrets Act, 1923 only.

III) Matter to proceed for other offences and learned Magistrate to take note of above observations.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm