

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1887 OF 2019**

HARISH
VITHAL
CHAUDHARI

Abdul Khadar Babusab Nadaf

...Petitioner

Versus

The State Of Maharashtra

...Respondent

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Mr. Mohd Saeed Asgar Moghul a/w Khushwant Singh Dhaniwale &
M. M. Sayyed Advocate for the Petitioners.

Mr. P. P. Deokar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st DECEMBER, 2025

P.C.

1. The challenge in this writ petition is order dated 12th March, 2019 passed by the Additional Sessions Judge, Ichalkaranji below Exhibit-13 in Sessions Case No. 55 of 2016.

2. It is prosecution's case that on 22nd September, 2015 at around 7.30 a.m. petitioner and deceased co-accused abducted the first informant on the ground of not providing NOC for Bullet motorcycle to get in the name of the petitioner. They asked Rs.1,00,000/- from the first informant and for not giving the said amount, they abducted the first informant in Scorpio vehicle and taken to him Vijapur. There. they assaulted the first informant with fist and kick blows and forced

him to write on stamp paper in Kannad language before one writer. Due to said assault the hand of the first informant is fractured.

3. It is contention of learned counsel for the petitioner that the petitioner has been falsely implicated in this case. The police has not seized the Scorpio vehicle in which the first informant was abducted nor the statement of writer in whose presence, the first informant was forced to write in Kannad language on stamp paper, is recorded. The learned counsel further submitted that no injury certificate produced with the charge-sheet showing that the hand of the first informant has fractured. There is no material on record to frame the charge against the petitioner, but the learned trial Court has not considered these facts and requested to allow the petition.

4. It is contention of learned APP that the petitioner and co-accused abducted the first informant in Scorpio vehicle and taken to him at Vijapur. There are statements of eye witnesses which shows that the petitioner had abducted the first informant in Scorpio vehicle. He was beaten up by the petitioner and co-accused. There are ample evidence against the petitioners. The petitioner cannot be discharged at prima facie stage as trial is required to prove the case against him and requested to dismiss the petition.

5. I have heard both the learned counsel. Perused the impugned

order.

6. The main allegations against the petitioner is that petitioner and co-accused abducted the first informant in Scorpio vehicle. But no Scorpio vehicle is seized during the investigation. The second contention is that the first informant was forced to writ on stamp paper in Kannad language before one writer at Vijapur. No statement of said writer is recorded during the investigation. The third contention is that the first informant was beaten up by the petitioner and co-accused and the first informant's hand got fractured. But no injury certificate is produced on record to show the injury sustained by the first informant. In absence of all these ingredients, it cannot be said that the prosecution's case is made out against the petitioner. The learned trial court has failed to consider these facts. Mere statements of eye witnesses are not sufficient to prove the case against the petitioner. There is no material on record to frame charge against the petitioner. In view of above, I pass following order.

ORDER

- I. Petition is allowed.
- II. The impugned order dated 12th March, 2019 passed by the Additional Sessions Judge, Ichalkaranji below Exhibit-13 in Sessions Case No. 55 of 2016 is hereby quashed and set aside.

III. The petitioner is discharged from the Sessions Case
No. 55 of 2016.

IV. Writ Petition is disposed off.

(SHIVKUMAR DIGE, J.)