

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1021 OF 2022

Dhananajay Anantrao Jadhav]
Age 50 years, Occ. Service,]
Residing at Jadhav Wadi, Post Gireem,]
Tal. Daund, District Pune.] ... Petitioner

Versus

1. The State of Maharashtra]
Through the Police Inspector,]
Tembhurni Police Station, District Solapur.]
2. Kashinath Saudagar Talekar]
Adult, Occ. Retired,]
R/at. Grevelia Building,]
Flat No. 401, Magarpatta City,]
Hadapsar, Pune – 411 013.] ... Respondents

Mr. Vivek Salunkhe (Through V.C.) a/w. Mr. Mahesh Rawool & Mr. Manthan Bhandigare for the Petitioner.

Mr. A.A. Naik, A.P.P for the Respondent No.1-State.

Mr. Rahul Kadam a/w. Mr. Shardul Diwan for the Respondent No.2.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 19th November 2025.

ORAL JUDGMENT (Per : M.S. Karnik, J.)

1. The Petitioner seeks quashing of FIR No. 0129 of 2022 registered with Tembhurni Police Station, District Solapur Rural. The F.I.R. was registered against the Petitioner on 28th February 2022 for the offences punishable under Section 166, 167, 217, 218 & 201 of Indian Penal Code (I.P.C.).

2. The facts of the case in brief are as under :

2.1 The Petitioner was posted at Tembhurni Police Station as Assistant Police Inspector in the year 2009. The alleged incident took place on 10th October 2009. As per the Respondent No.2, the incident took place in his agricultural field situated at Tembhurni. The Respondent No.2-first informant alleged that one Dhanaji Shivaji Kedar committed trespass in his field with the help of JCB machine and dug up the land. The first informant suffered a loss of Rs.5,000/-.

2.2 The F.I.R. No. 45 of 2009 came to be registered on 3rd November 2009 against the said Dhanaji Shivaji Kedar, as per the directions of the Petitioner as he was incharge of the Police Station.

2.3 On 25th November 2009, the Investigating Officer arrested the accused Dhanaji Shivaji Kedar. The JCB machine used in the commission of the offence alleged crime was seized. The statement of the concerned

witnesses were also recorded. The investigation was completed on 30th November 2009 and Chargesheet came to be filed against the accused.

2.4 The Summary Criminal Case No. 56 of 2009 was registered on the basis of the aforesaid F.I.R. on 2nd December 2009 before the Judicial Magistrate First Class (J.M.F.C.), Madha.

2.5 The Criminal case was tried and by the Judgment and Order dated 6th April 2015, the accused was acquitted on the basis of the compromise entered into by the Respondent No.2-first informant with the said accused Dhanaji Shivaji Kedar.

3. On 20th April 2015, the Respondent No.2-first informant filed application against the Petitioner i.e. the concerned Police Officer making a grievance that on 10th October 2009 when the above alleged incident of criminal trespass has occurred at the field of the first informant, the Petitioner did not immediately register the F.I.R.. The Petitioner submitted his response to the above complaint on 10th October 2015 and thereafter the complaint came to be closed.

4. After a gap of 7 years, the F.I.R. No. 0129 of 2022 was registered against the Petitioner at Tembhurni Police Station on 28th February 2022 by the Respondent No.2-first informant for alleged offence mentioned herein before alleging that the Petitioner delayed the registration of F.I.R. on 3rd November 2009 in respect of the incident that took place on 10th

October 2009.

5. We have heard Mr. Salunkhe, learned counsel for the Petitioner. We have also heard Mr. Naik, learned A.P.P. and Mr. Kadam, learned counsel for the Respondent No.2, who opposed the Petition.

6. Mr. Kadam vehemently opposed the quashing of the F.I.R.. It is submitted by Mr. Kadam that in the present case, all the ingredients of the offences alleged against the Petitioner in the F.I.R. are made out. It is submitted that there was a delay on the part of the Petitioner in registering the F.I.R., which is resulted in prejudice to the Respondent No.2-first informant. It is further submitted that it is only on account of delay in lodging the F.I.R. that the Respondent No.2-first informant had to compromise the case with the accused. It is further submitted that though the Petitioner was a responsible officer, had committed serious dereliction in his duty and hence, the Respondent No.2 is justified in registering the F.I.R.. It is further submitted that none of the grounds available for quashing of the F.I.R. can be said to be made out in the present case and this is a fit case where the present Petition deserves to be dismissed.

7. We have carefully perused the contents of the F.I.R.. It is pertinent to note that the F.I.R. in respect of incident of 10th October 2009 has filed by the Respondent No.2 against accused Dhanaji Shivaji Kedar. The

chargesheet came to be filed and it is during the course of the proceedings in Summary Criminal Case No. 56 of 2009, that the compromise was entered into between the Respondent No.2-first informant and the accused Dhanaji Shivaji Kedar. The said compromise is at Exhibit-15. Prior to the compromise, at no point of time did we find that the Respondent No.2 had made any grievance that any prejudice is caused to the Respondent No.2 as a result of delay in filing the F.I.R.. The acquittal of the accused Dhanaji Shivaji Kedar was not as a result of delay in filing the F.I.R., but it was due to the compromise that was entered into between the Respondent No.2 and the accused. Despite having several opportunities to raise a grievance since the year 2009 till the year 2015, there is not a single instance pointed out when such a stand about delay in filing the F.I.R. resulting in prejudice to the Respondent No.2 has been taken up. It is pertinent to note that despite the complaint against the Petitioner made in 2015 having been closed in the year 2015 itself, after a gap of 7 years, on 28th February 2022 the Respondent No.2 has registered the subject F.I.R. against the Petitioner.

8. In our opinion, the filing of such a delayed F.I.R. is nothing but an instance of harassment of the Petitioner and an afterthought. Continuing the criminal proceedings against the Petitioner in such facts and circumstances would amount to an abuse of the process of the Court,

which warrants the intervention of this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India.

9. The Criminal Writ Petition is accordingly allowed in terms of prayer clause (a).

10. Petition is disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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