

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1367 of 2024

Mahesh Madhukar Nanaware

..... Petitioner

Versus

The State of Maharashtra & Anr.

..... Respondents

Adv. Zaid Qureshi a/w. Adv. Uday Konojia (Through V.C.), Advocate
for the Petitioner.

Ms. Anuja S. Gotad, APP for the State.

**CORAM: RAVINDRA V. GHUGE AND
RAJESH S. PATIL, JJ.**

RESERVED ON : 2nd JANUARY, 2025

PRONOUNCED ON : 21st JANUARY, 2025

JUDGMENT (PER - RAJESH S.PATIL, J.) :-

1. The present Writ Petition has been filed under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, by the original Accused person against whom offence vide Crime No.0359 of 2022 has been registered on 08th December, 2022 at Alandi Police Station, District Pune, at the behest of Respondent for the offence punishable under Sections 337, 279, 504,

427 of Indian Penal Code.

2. The prosecution case in the F.I.R. is that the Complaint's sister Shravani is married to the Petitioner/Accused. The Complainant is residing with her husband and two children. The Complainant is working as a teacher at Riverdale Sports School for the past two years. On 5th December, 2022, approximately 1.30 p.m., the Complainant was returning home along with her sister Shravani on Activa Scooter. As they reached the turn near Kel gaon, the Petitioner who was on his bike approached them at full speed. He instructed the Complainant's sister Shravani to stop their Active Scooter and started verbally abusing both of them. As the Complainant did not stop her Activa Scooter, the Petitioner obstructed their path, and kicked the Active Scooter, due to which the scooter fell down and the Complainant along with her sister Shravani sustained injuries. The Complainant hence filed Complaint with the Alandi Police Station, pursuant to which the F.I.R. was recorded for the offences punishable under Section 337, 279, 504 and 427 of the Indian Penal Code.

3. It is vehemently submitted on behalf of the Petitioner that there were certain matrimonial disputes between the Petitioner and his wife Shravani (who is the sister of the Complainant). No such unfortunate act was committed by the Petitioner. In order to take revenge the present F.I.R. has been filed by the Complainant. A bare reading of the F.I.R. shows that there is no case made out for offences punishable under Section 337, 279, 504 and 427 of the Indian Penal Code. The incident according to the Complainant occurred on 5th December, 2022, however, after much delay on 8th December, 2022 the F.I.R. was lodged and there is no explanation for the delay caused. The Complaint appears on the face of it totally false and, therefore, the Complaint requires to be quashed and set aside. The whole purpose of lodging the Complaint is to pressurize and extract monies from the Petitioner. Perusal of the F.I.R. reveals that the acts allegedly committed by the Petitioner would neither constitute any of the alleged offence nor same would amount abetment of any such offence alleged. Hence, the F.I.R. requires to be quashed and the present Petition would be allowed.

4. *Per contra*, the learned A.P.P. strongly opposed the

Petition and submitted that the perusal of the entire FIR and charge-sheet would show that there is ample evidence against Petitioner to convict them under the offence punishable under Sections 337, 279, 504 and 427 of the Indian Penal Code. It is further submitted that once Charge-Sheet is filed, this court should not entertain the present writ petition. The Statement recorded of witnesses and the fact that medical papers of the Complainant taking treatment after the incident has come on record, further justifies that the Accused person needs to face trial and the F.I.R. can't be quashed at this stage.

5. We have heard counsel for the both the sides and with their assistance, we have gone through the documents on record.

6. For quashing criminal proceedings under Section 482 of Criminal Procedure Code, and under Article 226 of the Constitution, we have to see whether the allegations in the complaint and F.I.R. *prima facie* indicate that there are serious allegations against the accused of having committed an offence.

7. The present Writ Petition has been preferred by Accused. The Accused /Petitioner is the husband of the Complainant, who has lodged the Complaint. The F.I.R. has been lodged by the police after a complaint being lodged by the Complainant who is the sister of the Petitioner's wife. The incident has occurred on 5th December, 2022, due to which the Complainant has lodged Complaint on 8th December, 2022. In the complaint attached to the F.I.R. it has been specifically stated as under :

"आम्ही केळगाव गावातील ओढ्याजवळ आलो असता माझी बहीण नामे सौ श्रावणी महेश नन्नवरे हिचे पती नामे महेश मधुकर नन्नवरे हे पाठीमागून त्यांचे जवळील हिरो होंडा बाईक घेऊन भरधाव वेगाने आमचे गाडीचे जवळ आले व मला व बहिणीस म्हणाले कि तुम्ही गाडी थांबवा मी तुमची बघतोस म्हणून मोठमोठ्याने शिवीगाळ करू लागला परंतु मी त्याचेकडे लक्ष न देता मी माझी गाडी घेऊन पुढे चालले व तेवढ्यात त्यांनी थांबे ताब्यातील दुचाकी मोटारसायकल वेदरकरपणे भरधाव वेगात चालवून माझे गाडीला त्याने जोराची लाथ मारली व मला मारण्याचा प्रयत्न केला त्यामुळे माझे गाडी स्तब्ध होऊन अपघात होऊन सदर अपघातात माझे डाव्या व उजव्या पायाच्या गुडघ्यास खरचटले व मुक्का मार लागला व उजवा पाय मुरगळला तसेच माझे बहीण नाव श्रावणी हिचे देखील उजव्या गुडघ्यास व मांडीस मुक्का मार लागला व माझी गाडी देखील रस्त्यावर खाली पडली व तीस क्रप पडून तिचे नुकसान झाले व त्यानंतर इसम नाव महेश नन्नवरे आम्हास शिवीगाळ करीत तेथून निघून गेला व त्यानंतर मी व माझी बहीण सौ श्रावणी दोघी ग्रामीण रुग्णालय आळंदी येथे उपचार कमी गेलो"

8. The police has recorded the statement of witness during investigation. The statements are part of the charge-sheet which is annexed in the present proceedings at page nos. 31, 36 to 40. Copies of medical papers are attached at page No.44 to 49.

9. The Supreme Court in the judgments of (i) *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*, AIR 1992 SC 604, (ii) *Rajeev Kourav vs. Baisahab & others*, (2020) 3 SCC 317 and (iii) *Kaptan Singh vs. State of Uttar Pradesh and others*, (2021) 9 SCC 35, have held that exercise of powers under section 482 CrPC to quash the proceedings is an exception and not a rule. Appreciation of evidence is not permissible at the stage of quashing of proceedings is exercise of powers under Section 482 CrPC.

10. In the recently reported judgment of *CBI vs. Aryan Singh*, AIR 2023 SC 1987, the Supreme Court has held that while examining the power under Section 482, the High Court should not conduct a mini trial. Similarly in the judgment of *State of Odisha vs. Pratima Mohanty and others*, (2022) 16 SCC 703, the Supreme Court has held that once the charge-sheet is filed, the High Court should be reluctant to quash the complaint. Paragraph no.8.2 of the judgment reads as under :

8.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of

law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under section 482 CrPC when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under section 482 CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this court the powers under section 482 CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts all onerous and more diligent duty on the Court.

[Emphasis supplied]

11. In the present proceedings, the charge-sheet has been already filed on 17th May, 2023 and the police have recorded the statement of witnesses, copies of which are enclosed with the charge-sheet and forms part of the records of the present proceedings.

12. After considering the contents of FIR and the various documents on record attached to the FIR, and the Charge-sheet, we are satisfied that it constitutes the ingredients of the offences alleged. Taking into account the law as laid down by the Supreme Court in the judgments referred above, we find that there is no merit in the present

Writ Petition and the same deserves to be dismissed. Hence, the following order :-

ORDER

- (i) **The Writ Petition stands dismissed.**
- (ii) Needless to state, any observations made herein are only for the purposes of deciding the Writ Petition only and would have no bearing on the final adjudication of the proceedings.

[RAJESH S. PATIL, J.]

[RAVINDRA V. GHUGE , J.]