



Judgment

51-Cr.WP-696-2025

1

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

CRIMINAL WRIT PETITION NO. 696 of 2025

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Sau. Mala W/o. Rahul Varma,
Aged about 38 years, Occ. Nil,
R/o. Plot No.205-A, Ladikar Layout,
Manewada Road, Nagpur.

... **PETITIONER**

- - V E R S U S - -

- 1] The Hon'ble Commissioner of Police,
Nagpur City, Nagpur.
- 2] The Hon'ble Deputy Commissioner of Police,
Having its office at Sakkardara Lake,
Sakkardara, Nagpur.
- 3] The Police Station Officer,
Police Station Hudkeshwar, Nagpur.

... **RESPONDENTS**

Mr. P.V. Dandwate, Advocate for the Petitioner.
Mr. S.S. Hulke, A.P.P. for the Respondents/State.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 09, 2025.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Shri S.S. Hulke, learned A.P.P. waives service for Respondents-State. With consent of learned Counsel for the parties, the petition is taken up for final hearing.

2. The present Petition is filed under Articles 226 and 227 of the Constitution of India, challenging the order dated 19/10/2024 in R.C.C. No.2216/2022 passed by Learned Judicial Magistrate First Class, (M.V.) Court, Nagpur, wherein, the application of the petitioner filed under Section 173(8) of the Code of Criminal Procedure, 1973, was rejected by the learned judge.

3. So as to decide the present petition, brief facts of the case appears to be that the petitioner is the legally wedded wife of Rahul Surajprasad Varma, and their marriage was solemnized in the year 2011. Out of the said wedlock, the

3

couple has been blessed with one daughter and one son. A dispute arose between the husband and wife, which resulted into filing of certain proceedings. It is alleged that on 11/04/2022, at about 06:00 p.m., the husband of the petitioner, Rahul Varma, entered the petitioner's house by breaking the lock, and cut the wires of the fridge and cooler, and scattered household articles. When the petitioner returned home on the same day, at about 09:30 p.m., she found that her husband had broken the lock, entered the house, and scattered the household articles, as well as cut the wires of the fridge and cooler. Based on these allegations, a written complaint was filed on 12/04/2022. Thereafter, on 14/04/2022, First Information Report No.230/2022 was registered with Hudkeshwar Police Station. After completing the investigation, a charge-sheet was filed on 19/05/2022 which resulted into registration of R.C.C. No.2216/2022.

4. On 06/02/2024, the petitioner filed an application

4

under Section 173(8) of the Code of Criminal Procedure, 1973, seeking issuance of directions to the Police Station Hudkeshwar, Nagpur, for further investigation on the following grounds:-

(i) The recitals in the written complaint dated 12/04/2022 are missing from the F.I.R. No.230/2022, and therefore, the Investigating Officer, while registering the F.I.R. dated 14/04/2022, deliberately changed the facts.

(ii) The Duty officer was under an obligation to accurately reproduce the contents of the written complaint dated 12/04/2022 in the F.I.R. However, the Duty Officer, Shyam Kanojiya, and the Police Station Officer, Police Station Hudkeshwar, Nagpur, deliberately failed to do so for reasons best known to them.

5

(iii) It was the duty of the Duty Officer to file the written complaint dated 12/04/2022, alongwith the charge-sheet, which he has failed to do.

(iv) The statements of the witnesses recorded by the Investigating Officer were not properly recorded. The statements are inconsistent with the complaint dated 12/04/2022.

(v) The Investigating Officer has not conducted the investigation properly.

Therefore, the petitioner filed an application for further investigation under Section 173(8) of the Code of Criminal Procedure, 1973. The learned Judicial Magistrate First Class, (M.V.) Court, Nagpur, by its order dated 19/10/2024, rejected the application of the petitioner on the ground that in order to fill up the lacuna, the application for further investigation has been filed.

6

5. This Court has heard the learned counsel for the petitioner and the learned A.P.P. on behalf of the Respondents/State. The learned counsel for the petitioner vehemently submits that there is variance between the written complaint dated 12/04/2022 and the F.I.R dated 14/04/2022 as the basis for lodging F.I.R. No. 230/2022 ought to be the complaint dated 12/04/2022. The concerned officer ought to have reproduced the contents of the complaint in the F.I.R. He further submits that the statements recorded under Section 161 are stereotypical in nature, and the Investigating Officer has not recorded them according to the version of the witnesses. Further, the spot panchanama does not reflect the incident that occurred on 11/04/2022. There is also delay in registering F.I.R. as though the petitioner has filed the complaint on 12/04/2022, the Investigating Officer has registered the F.I.R. on 14/04/2022.

6. The learned A.P.P. submits that the learned Court

7

below has rightly passed the order as the Court below was justified in rejecting the application, since it sans merit. The F.I.R. No. 230/2022 was registered based on the complaint dated 12/04/2022 and the statements were recorded as per the version of the witnesses, not only that the spot panchanama is supporting the case of the petitioner. He further submits that there was no delay in registering the F.I.R. In view of the dispute between husband and wife after registration of the F.I.R., the Investigating Officer has carried out the investigation so also filed the charge-sheet in accordance with Law. The statements recorded by the Investigating Officer is supporting the case of the petitioner, and therefore, there is no merit in the petition, and it deserves to be dismissed.

7. So far as the law with respect to further investigation is concerned, it is well settled that further investigation should be directed only in exceptional circumstances, revealing significant flaws in the investigation. In catena of judgments,

8

it was clarified that further investigation is not a routine procedure, and the powers under Article 226 should be exercised sparingly. Compelling reasons are required to direct further investigation after filing of the charge-sheet and commencement of the trial and a roving inquiry is not permissible.

8. Keeping in mind the above parameters, it will be appropriate to consider the submissions of the petitioner. It is not in dispute that the petitioner has filed complaint on 12/04/2022 and based on that complaint, the F.I.R. came to be registered on 14/04/2022. I have gone through the F.I.R. dated 14/04/2022 and the written complaint dated 12/04/2022, and I do not find any variance in the contents of the F.I.R. and the said complaint. Therefore, the submissions of the petitioner is misconceived to that extent.

9. Further, the statements recorded under Section 161

9

seems to be supporting the F.I.R. Not only that, the spot panchanama was also drawn, and whatever was found at the spot has been recorded in the spot panchanama. It is necessary to mention at this juncture that it would not lie in the mouth of the petitioner to say that the contents of the complaint dated 12/04/2022 and the F.I.R. dated 14/04/2022 are different, as she has signed F.I.R. No.230/2022. I have also gone through the application dated 06/02/2024, wherein, the petitioner seeks further investigation, as well as the impugned order. It appears that the charge-sheet came to be filed on 02/06/2022 in the Court, the charges came to be framed on 13/06/2022 and the examination-in-chief of PW-1, i.e., the informant, came to be recorded on 30/10/2023. Thereafter, the application for further investigation was filed on 06/02/2024. Thus, it seems that right from the registration of the F.I.R. till the filing of the charge-sheet, and even after framing of charge and examination-in-chief of the petitioner, the petitioner remained silent.

10

10. There is no dispute that further investigation can be directed in appropriate cases even during the trial, however, there must be some exceptional circumstance or new material or evidence which was not available at the time of the initial investigation. Only under such circumstances, further investigation can be directed. In the present case, the petitioner has neither made out an exceptional case, nor brought any new material on record, nor pointed out any flaw in the investigation. Under such circumstances, further investigation cannot be directed. I am also sensitive to the settled position of law that the powers under Articles 226 or 227 of the Constitution of India, so far as further investigation is concerned, are to be exercised only in exceptional circumstances and sparingly. Therefore, considering the above facts and circumstances, I do not find any error in the order dated 19/10/2024 passed by Learned Judicial Magistrate First Class, (M.V.) Court, Nagpur. Hence, the following order:-

ORDER

(i) The Criminal Writ Petition No. 696/2025
is dismissed.

(ii) Rule stands discharged.

[**M. M. NERLIKAR, J**]