



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.303/2025

Harssh Vishwanath Poddar Vs. The Family Court, Vadodara and another

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. Devendra V. Chauhan, Senior Counsel assisted by Mr. G.S.Gour, Advocate and Mr. Aditya Chaudhari, Advocate for the petitioner.

CORAM : NITIN W. SAMBRE & MRS. VRUSHALI V. JOSHI, JJ.
DATE : APRIL 3, 2025.

1. Heard.
2. The petitioner, an IPS Officer having posted as Superintendent of Police at Nagpur (Rural), district- Nagpur has approached this Court questioning the order dated 28th March, 2025 passed by the respondent no.1-Family Court at Vadodara in Criminal Procedure No.803/2018 wherein the Family Court has made the following observations:

"Therefore, on 12/3/25, notice no.23/25 was sent to the Superintendent of Police (Rural), Nagpur, Maharashtra via registered post and email. A copy was also sent to DIG, Nagpur Range, Nagpur, Maharashtra and DGP, Maharashtra. It is assumed that the Superintendent of Police (Rural), Nagpur, received this notice, and on 27.3.25, the Superintendent of Police (Rural), Nagpur, Nagpur, Maharashtra was ordered to appear in court personally.

In response, Umred P.S.of Nagpur Rural, Maharashtra reported that they haven't served the warrants to the wife Jiten Ravindra Meser since 2018, nor have they collected any amount from her. They were instructed to investigate why warrants were returned improperly or destroyed if they were government documents. On 27.3.25, the Superintendent of Police (Rural), Nagpur, Maharashtra, or an officer under their

command, did not respond regarding whether they had served the warrants.

The case was adjourned to the Department of Justice on 28.3.25, but the notice no.23/25 dated 12.3.25 sent to the Superintendent of Police (Rural), Nagpur, Maharashtra and Umred Police Station's PI was not complied with. Therefore, it is clear that the Superintendent of Police (Rural), Nagpur, Maharashtra and PI of Umred P.S. are not willing to follow court orders or state law, and have not returned warrants properly or have destroyed government documents, preventing the applicant Jiten Ravindra Meser from getting maintenance.

The Superintendent of Police (Rural), Nagpur, Maharashtra and PI of Umred Police Station may have committed offenses under Bhartiya Nyaya Sanhita, 2023 sections 188, 189, 223, 253, 255, and section 145 (3) of the Bombay Police Act. Therefore, PI of Umred P.S., Nagpur Maharashtra and the Superintendent of Police (Rural), Nagpur, Maharashtra should be charged in the Vadodara Special Police Station under the above sections. The court hereby orders to register a case against Mrs. H.J. Patil and directs her to file detailed documents and court notices given to the Superintendent of Police (Rural), Nagpur, Maharashtra against these officers. Furthermore, Registrar Mrs. H.J. Patil is ordered to file a complaint against the Superintendent of Police (Rural), Nagpur, Maharashtra and PI of Umred Police Station, Nagpur Maharashtra under the above sections and prepare the case in 8 (eight) days".

3. Having regard to the nature of challenge in the petition, this Court has asked the assistance of the learned Senior Counsel on the issue of jurisdiction of this Court to entertain the present petition as the order under challenge is passed by the respondent no.1 who is amenable to the jurisdiction of the High Court of Gujarat.

4. Drawing support from Article 226 of the Constitution of India, it is claimed that even if a miniscule part of the cause of action arises within the territorial jurisdiction of this Court, this Court has jurisdiction to entertain the petition. It is urged that the writ petition is very much maintainable for the reason that in case if the order impugned is given effect, it will be served on the petitioner who is within the jurisdiction of this Court even if the same will give rise to the registration of an offence in the State of Gujarat. However, since part of the cause action arises here, the petitioner has every right to maintain the petition. Specific reliance is placed on the Apex Court judgment in the matter of **Navinchandra N.Majithia Vs. State of Maharashtra and others**, reported in **(2000) 7 SCC 640**, particularly paragraphs 14, 15, 16, 17 and 27 which read thus:-

"14. The High Court as noted earlier, dismissed the writ petition holding that it could not entertain the writ petition since the petitioner has prayed for quashing the complaint which was lodged by the complainant at Shilong in the State of Meghalaya.

15. On the pleadings of the parties noticed in the foregoing paragraphs the moot question that arises for consideration is whether the Bombay High Court was right in passing the order rejecting the writ petition on the ground that the Court could not entertain the writ petition as the petitioner had prayed for quashing the complaint filed against him by J.B.Holdings Ltd. at Shilong.

16. Article 226 of the Constitution of India which provides the power to High Courts to issue certain writs reads as follows:

"226. Power of High Courts to issue certain writs- (1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power notwithstanding that the seat of such Government or authority or the residence of such person is not within territories.

(3) and (4)..

17. From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.

27. Tested in the light of the principles laid down in the cases noted above the judgment of the High Court under challenge is unsustainable. The High Court failed to consider all the relevant facts necessary to arrive at a proper decision on the question of maintainability of the writ petition, on the ground of lack of territorial jurisdiction. The Court based its decision on the sole consideration that the complainant had filed the complaint at Shillong in the State of Meghalaya and the petitioner had prayed for quashing the said complaint. The High Court did not also consider the alternative prayer made in the writ petition that a writ of mandamus be issued to the State of Meghalaya to

transfer the investigation to Mumbai Police. The High Court also did not take note of the averments in the writ petition that filing of the complaint at Shillong was a mala fide move on the part of the complainant to harass and pressurise the petitioner to reverse the transaction for transfer of shares. The relief sought in the writ petition may be one of the relevant criteria for consideration of the question but cannot be the sole consideration in the matter. On the averments made in the writ petition gist of which has been noted earlier it cannot be said that no part of the cause of action for filing the writ petition arose within the territorial jurisdiction of the Bombay High Court."

5. In addition to above, our attention is also invited to the Full Court decision of the Delhi High Court in the matter of **M/s Sterling Agro Industries Ltd. Vs. Union of India and others** reported in **ILR (2011) VI Delhi** decided on August 1, 2011 particularly paragraph 33 Clause (b), which reads thus:

"33. In view of the aforesaid analysis, we are inclined to modify the findings and conclusions of the Full Bench in New India Assurance Company Limited (supra) and proceed to state our conclusions in seriatim as follows:

(a).....

(b) Even if a miniscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this Court, however, the cause of action has to be understood as per the ratio laid down in the case of Alchemist Ltd.(supra)".

6. In the backdrop of the aforesaid submissions and having examined the position, we are of the view that part of the cause of action arises

within the territorial jurisdiction of this Court and as such the Writ Petition pursuant to Article 226 (2) of the Constitution of India is maintainable.

7. As far as the merits of the case are concerned, it is urged by the learned Senior Counsel that the learned Judge of the Family Court has passed the order impugned which is based on certain communication gap between the office of the Superintendent of Police, Nagpur (Rural) and that of the Family Court in the matter of execution of certain orders in Criminal Procedure No.803/2018. According to Mr. Chauhan, the learned Family Court has presumed that since the warrants which were sent for execution were not returned, same were presumed to have been destroyed. Based on the above factually incorrect inference viz. the government documents were destroyed by the office of the Superintendent of Police or the officials working under him, the complaint is directed to be lodged by the Registrar, Family Court, Vadodara, for offences punishable under Sections 188, 189, 223, 253, 255 of the Bhartiya Nyaya Sanhita, 2023 and Section 145 (3) of the Bombay Police Act.

8. A categorical statement is made that the office of the Superintendent of Police has not destroyed any of the documents, which were issued or communicated as has been referred to in the impugned order by the office of the Superintendent of Police (Rural), Nagpur.

9. The learned Senior Counsel has also made a statement on instructions from the petitioner that not only the warrants issued by the Family Court were executed but such execution has resulted into the concerned person being taken into custody by the Family Court.

10. In view of the aforesaid categorical statement which is made by the learned Senior Counsel on instructions, we deem it appropriate to cause notice to the respondents, returnable on 5th May, 2025.

11. We direct that the directions issued under the impugned order dated 28th March, 2025 passed by the Family Court No.5, Vadodara in Criminal Procedure No.803/2018 pursuant to the order passed below Exhibit 1, in the mean time should not be given effect to.

12. However, in view of submission of learned Senior Counsel for the petitioner, we make it clear that if in case the Court intends to consider the reply submitted by the petitioner dated 2nd April, 2025 which is produced along with the present writ petition, it shall be open for the Family Court to consider the same and pass appropriate orders in the matter by ignoring the impugned order.

13. We further make it clear that the petitioner through his lawyer to appear before the Judge, Family Court no.5, Vadodara in disposed of Criminal Procedure No.803/2018 in the matter of reconsideration of the impugned order in the light of observations made in the foregoing paragraphs.

14. We permit the Senior Counsel for the petitioner to forthwith communicate the present order to the office of the Family Court, Vadodara.

15. Steno copy be furnished to the learned Senior Counsel appearing for the petitioner.

(MRS.VRUSHALI V. JOSHI, J.) (NITIN W.SAMBRE, J.)

Mukund Ambulkar