IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 CRIMINAL WRIT PETITION NO. 1810 OF 2024

DATTA KESHAVRAO SATPUTE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Mr. Abhijit Chandrakant Darandale, Advocate for the Petitioners
Mr. S. B. Narwade, APP for the Respondent/State
Ms. Shilpa Aurangabadkar, Advocate for Respondent No.2 (appointed)

CORAM : R. M. JOSHI, J.
DATED : 9th OCTOBER, 2026

PER COURT :-

1. This Petition seeks quashing of the First Information Report, the charge-sheet filed pursuant to the investigation carried out therein, and the order taking cognizance of the case and issuing summons against the present Petitioners.

2. The First Information Report in the present case came to be lodged by the contesting Respondent on 24.02.2024. It is the case of the Petitioners that, on exactly the same set of facts, an earlier First Information Report bearing No. 205/2023 came to be registered with Pathari Police Station, Parbhani, for the same offence. The Petitioners further contend that, pursuant to the investigation conducted in the earlier crime, a charge-sheet came to be filed and the trial was conducted. According to them, by judgment and order dated 07.07.2023, the present Petitioners came to be acquitted. The Petitioners have

challenged the present First Information Report and the consequential proceedings on the ground that the registration of a second crime in respect of the same incident is barred under Section 300 of the Code of Criminal Procedure.

3. The learned Advocate for the Petitioners submits that a perusal of the First Information Report lodged in the earlier crime and the present First Information Report indicates that both reports are based on exactly the same allegations. According to him, trial in the earlier crime proceeded after investigation and culminated in the acquittal of the Petitioners. He, therefore, submits that once the competent Court has recorded an order of acquittal, it is not open to Respondent No. 2 to lodge another First Information Report on the same set of facts. According to him principle of double jeopardy as contemplated by Article 20(2) of the Constitution of India as well as procedural law, prohibits such criminal prosecution for same offence more than once. In support of his submissions, he places reliance on the following judgments:

(i) Prasanta Kumar Dhar and Anr. Vs. State of West Bengal and Anr., 2026 LJ Soft (SC) 1061.

(ii) Vijayalakshmi Murali Alias Muraleedharan and another Vs. Kunnath Kumaran's Son Vasudevan and others, (1994) 4 SCC 656.

(iii) Mohit Bharatiya Vs. State of Maharashtra, 2024 LJSoft (BOM) 9007.

4. The learned Advocate for the Informant/Respondent No. 2 opposes the Petition by contending that, although the learned Trial Court acquitted the present Petitioners in R.C.C. No. 62/2023, the said acquittal was obtained by playing fraud upon the contesting Respondent. She submits that, on the false promise of resuming cohabitation, the contesting Respondent was made to retract from her statement before the learned Trial Court. According to her any woman would like to resume co-habitation with husband and with such false promise of accused, acquittal is obtained, then such acquittal is not legal and accepting the same would lead to causing grave injustice to woman. She, therefore, contends that the acquittal recorded by the learned Trial Court of Petitioners cannot operate as a bar to the registration of the subsequent First Information Report and the trial arising therefrom. She places reliance on the judgment of the Jharkhand High Court in case of ***Md. Salim Sai @ Salim Sai and another Vs. The State of Jharkhand, in Cr.M.P. No. 3739 of 2023***.

5. The learned APP opposes the Petition by contending that, having regard to the facts of the present case, it cannot be said that the present First Information Report is barred by the principle of double jeopardy.

6. No doubt there is absolute bar created by Article 20(2) of the Constitution of India, to prosecute and punish any person for the same offence more than once. Section 300 of the Code of Criminal Procedure and corresponding provision of BNSS, prohibits trial on same facts, in case such a

person has been tried by Court of competent jurisdiction and convicted or acquitted, where such conviction or acquittal remains in force. Thus, there can be no dispute made with regard to the proposition of law canvassed by Petitioners' Advocate that, since acquittal is recorded by a competent Court, a subsequent prosecution on the same set of facts would be barred in law.

7. Herein this case there is admittedly no challenge to order of acquittal of Petitioners in R.C.C. No. 62 of 2023 by judgment dated 07.07.2023. Further perusal of FIR indicates that exactly on same facts subsequent i.e. present FIR has been lodged. In absence of setting aside of the judgment of acquittal of competent court, it would not be permitted in law to prosecute Petitioners on same facts.

8. This Court concurs with the submission of learned Advocate for Informant that there may, however, be situations in which a wife is induced by her husband or his relatives, on a false promise of cohabitation without such intention, not to support the prosecution before the Trial Court, thereby resulting in passing of an order of acquittal. In such circumstances still a question would arise as to whether such contention could be entertained in this petition for quashment and candid answer thereto would be in negative. Apart from the fact that no such fraud has been alleged in FIR, even if it would has been so claimed, that could not be accepted by this Court, while deciding validity of the subsequent FIR and its prosecution.

9. Having regard to the aforesaid facts and circumstances, the Petition deserves to be allowed. Accordingly, the Petition is allowed in terms of prayer clauses ‘B’, ‘C’ and ‘CC’. It is however clarified that allowing of present petition shall not be construed as rejection of contention of learned Advocate for the Informant if sought to be raised in any proceedings as per law.

10. This Court therefore finds it appropriate to quantify the fees of the appointed counsel at the rate of Rs. 25,000/- (Rupees Twenty-Five Thousand only), which shall be paid by High Court Legal Services Authority, Sub-Committee, Aurangabad.

11. Before parting this Court would like to record its appreciation for the efforts taken by the appointed Advocate for the Informant.

(R. M. JOSHI, J.)

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