IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

995 CRIMINAL WRIT PETITION NO. 1532 OF 2025

Shaikh Naeem Shaikh Lal And Others
VERSUS
Sayyad Abrar Sayyad Khamar
.....
Mr. P. S. Agrawal, Advocate for the Petitioners.
Ms. Khan Sultan R., Advocate for Respondent (Appointed).
.....

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 28 OCTOBER, 2026

PC:

1. Heard Mr. Agrawal, learned counsel for petitioners, and Ms. Khan, appointed counsel for respondent.

2. The petitioners are challenging the impugned order dated 16 August 2023, passed below Exhibit – 1 by the learned Judicial Magistrate First Class, Court No.2, Hingoli in RCC No.67 of 2023, whereby the learned Judicial Magistrate First Class was pleased to issue process against the petitioners and thereby initiate criminal proceedings in RCC No.67 of 2023.

3. According to learned counsel for the petitioners, respondent had initially filed an N.C. report dated 13 November 2022, which was registered as N.C. No.291 of 2022. The said N.C. report was itself filed

after a period of two months from the date of the incident, which allegedly took place on 2 September 2022. As per the said report, it was alleged that the petitioners, who are members of the Managing Committee of Paltan Trust, had been to his shop, where respondent having his business of fabrication. The said premises had been rented out to the elder brother of the informant. According to his report, the petitioners has visited his shop and quarrelled with him for vacating the said premises, as the said premises belonged to the Masjid. The said report also discloses that the petitioners had threaten him with dire consequences if the premises were not vacated. On the basis of the said report, the police registered N.C. No. 291 of 2022 for the offences punishable under Sections 504, 506 and 34 of the Indian Penal Code, 1860.

4. Thereafter, respondent approached the learned Judicial Magistrate First Class, Hingoli, by filing a private complaint, which was registered as R.C.C. No.67 of 2023. The said complaint came to be filed on 24 February 2023, alleging therein that on 2 September 2022, at about 2.30 p.m., the petitioners had come to his shop, abused him and asked him to vacate the shop. They had also threatened to kill him if the shop was not vacated. In the said complaint before the learned Judicial Magistrate First Class, respondent further stated that the incident had been witnessed by two persons, namely Abdul Razzak Abdul Hakim and Shaikh Mobin Shaikh

Hasif, who had pacified the parties during the quarrel. The learned Judicial Magistrate First Class, vide order dated 16 August 2023, issued process against the petitioners. Hence, the petitioners have approached this Court.

5. According to Mr. Agrawal, learned counsel for the petitioners, the names of the so-called witnesses were not mentioned in the N. C. report dated 13 November 2022. Moreover, the said private complaint was filed after a period of six months from the date of the incident. He therefore submits that the issuance of process against petitioners is patently illegal. He further submits that the allegations made in the complaint, even if taken at their face value and accepted in their entirety, do not constitute any prima facie offences. The complaint has been lodged only with the intention of harassing the petitioners. Previously, the Managing Committee of Masjid Paltan and Madarsa Anjuman Islamiya has initiated proceedings against the elder brother of respondent before the Waqf Tribunal at Aurangabad for recovery of possession and rent, which are still pending adjudication. He therefore submits that the instant criminal proceedings are nothing but an attempt to harass the petitioners and have been initiated as a counterblast to the proceedings initiated by the petitioners for recovery of possession of the premises.

6. Moreover, there is huge delay in lodging the aforesaid complaint,

which has not been explained by respondent. Hence, he submits that the continuation of the proceedings against the petitioners would amount to an abuse of process of the Court and, therefore, prays for quashing of the said proceedings.

7. Per contra, Mrs. Khan, learned appointed counsel for respondent, vehemently opposes the instant application. According to her, there is sufficient material against the petitioners to prosecute them before the learned Trial Court. As such, no prima facie case is made out by the petitioners for entertaining the instant applicant and, therefore, the application deserves to be rejected.

8. After hearing learned counsel for the parties, it is found that the complaint has been filed by respondent after an unexplained delay of six months. Moreover, the names of the witnesses who are stated to have witnessed the incident were not mentioned in the N.C. report filed on 13 November 2022.

9. Moreover, the statements of the said witnesses, namely, Abdul Razzak Abdul Hakim and Shaikh Mobin Shaikh Hasif, were recorded on 18 May 2023 in respect of the incident dated 2 September 2022. Both statements are contrary to each other.

10. In that view of the matter, this Court is of the considered view that

the proceedings registered against the petitioners deserve to be quashed and set aside. Accordingly, the impugned order dated 16 August 2023 is quashed and set aside. The Writ Petition is allowed in terms of prayer clause (C) which reads thus:

> *"C) Appropriate writ of Certiorari and/or any other appropriate writ, order or direction, thereby quashing and set aside the Private Criminal Complaint dated 24.2.2023 and registered on 03.03.2023 bearing RCC No.67 of 2023, and Order of Issuance of Process dated 16.08.2023 passed below Exhibit 1 by learned Judicial Magistrate First Class (Court No.2) Hingoli be quash and set aside."*

11. Since learned counsel for respondent was appointed through the Legal Aid, she is entitled to receive fees as per the rules, to be paid by the High Court Legal Aid Services Sub-Committee, Aurangabad Bench.

**(SUSHIL M. GHODESWAR, J.)**