Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1412 OF 2024

Nagma Shabbeer Kesarkar & Ors. .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents

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- Mr. Muneer S. Kesarkar, Advocate for Petitioners
- Mr. Amit Munde, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 22, 2026

P. C.:

1. Heard Mr. Kesarkar, learned Advocate for Petitioners and Mr. Munde, learned APP for State.

2. Present Petition is filed seeking quashing and setting aside of the FIR and the consequential proceedings, if any, arising therefrom.

3. There are four Petitioners before the Court. Petitioner No. 2 is an Advocate by profession. Petitioner Nos. 1 and 3 are his younger sisters and Petitioner No. 4 is the mother of Petitioner No. 2. Complainant is the State.

4. On 20.08.2022 Complaint is filed under Sections 353, 307, 332, 504, 506 and 34 of the Indian Penal Code, 1860 (for short "IPC") against all four Petitioners. According to prosecution, Petitioner No. 1 was externed from the jurisdiction of Shriwardhan area but on

20.08.2022 police got information that Petitioner No. 1 had breached the externment order and stayed in her house along with her family members. Accordingly Police Authorities went to Petitioner's house in order to arrest Petitioner No. 1. According to prosecution at that time, Petitioner No. 4 mother restrained them from entering the house or climbing the staircase and Petitioner No. 3 did not cooperate with the Police Authorities and it is alleged that they assaulted them.

5. It is alleged that Petitioner Nos. 2, 3 & 4 prevented the police persons from arresting Petitioner No. 1 for breach of externment order and they shouted at the police officials. The First Informant, a Police Constable, has alleged that Petitioner No. 1 assaulted her with a weapon, details of which are not specified due to which the first informant received head injury. It is also alleged that Petitioner Nos. 2, 3 & 4 aided in the assault. It is alleged that Petitioner No. 4 prevented the public servants from doing their duty and for attempt to murder which is *prima facie* on the face of record a very serious charge.

6. Petitioner No. 2 appeared in person and on behalf of all Petitioners. He would submit that on the date of incident, Respondent - Complainant along with other police personnel visited the house of Petitioners to serve a vague notice to Petitioner No. 1 which was dated 10.08.2022. He would submit that the alleged incident and complaint

is nothing but a fallout of a political rivalry and situation in view of the involvement of a local influential political leader involved in pressurizing the Police Authority to arrest Petitioner No. 1 due political rivalry. He would submit that after First Informant served the vague notice, she immediately summoned the police personnel who came to the house of Petitioners to arrest Petitioner No. 1. It is seen that prosecution alleged causation of simple injury on the basis of the medical certificate. However, in the chargesheet which is filed, there is *prima facie* no evidence of any medical treatment having been administered at Alibaug Civil Hospital when the injury certificate itself states that the patient was reported to Alibaug Civil Hospital for CT Scan on the head where the alleged injury was suffered for further management and treatment. In that view of the matter, Petitioner No. 2 has argued that provisions of Section 307 cannot be attracted.

6.1. It is also further alleged that a weapon is used in commission of the offense due to which there is a head injury suffered by first informant but no such weapon is recovered and the head injury is clarified by the medical certificate to be a simple injury. It is *prima facie* seen from the FIR that Petitioner No. 1 has been alleged to have inflicted a blow with some sharp object on Complainant's head due to which she had a fall. However, the FIR and chargesheet does not describe as to how the incident occurred and who was present at the

time of the incident and there is not a single eye witness to the incident in question which *prima facie* shows that the case of the prosecution lacks teeth altogether.

6.2. It is also vehemently argued that prosecution has not recorded a single eye witness statement in respect of the same. It is also argued that as per letter dated 20.08.2022, it is alleged that the assault was shown to have been committed with the use of a wooden stick which is contrary to the initial case but two days thereafter, a further statement is recorded of the prosecution witness which describes that an iron pipe was used for carrying out the assault. Petitioner No. 2 has therefore persuaded the Court to consider the contradictions in the case of the prosecution in the statements recorded to substantiate the case of the prosecution which on the face of record appears to be false. He would submit that Petitioner No. 1 is the Complainant who has filed a Criminal Complaint against a local influential political leader with Shriwardhan Police Station which is pending and under investigation and the present Complaint is nothing but a fallout of the same. He would argue that Petitioner No. 4 who is the aged mother of Petitioner Nos. 1, 2 and 3 was shown as an absconder from the Petitioner's house which is a complete concocted and false story when she was at all times present and living in the same house. He would submit that Petitioner Nos. 1 and 2 came to be arrested, Petitioner No.

4 was not touched by the prosecution team despite her presence but in the Complaint it has been alleged that she has been shown to be an absconder.

6.3. He would submit the motive and intention to commit the present crime can be clearly exhibited in view of the revengeful attitude of the politically influential person against the Petitioners and the present case is nothing but a fallout of a political vendetta to settle personal scores. He would submit prosecution case is therefore completely biased because it is based upon the witness statements of the interested witnesses only and therefore the alleged invocation of Section 307 is nothing but an abuse of the due process of law. He would submit that insofar as Petitioner No. 1 is concerned, she conducts her cases personally and is required to remain present when her case is listed for hearing in Shriwardhan Court and that is the reason as to why she was attending the family house on the said date. He would therefore request the Court to consider the aforesaid submissions and quash the proceedings.

7. ***PER CONTRA,*** learned APP would submit that that there is no material which is shown to the Court that the police have conducted the operation for arresting the Petitioner No. 1 as a matter of political vendetta. My attention is drawn to the fact that Petitioner Nos. 1 and Petitioner No. 4 - mother both committed assault with an iron rod and

wooden stick and Petitioner Nos. 2 and 3 prevented the police persons from arresting Petitioner No. 1. He would argue that when the police team reached the Petitioner's house and inquired with Petitioner No. 4, she refused to cooperate and restrained them from climbing the staircase and resisted the Police personnel from entering her house. He would submit that the witness statements recorded *prima facie* show that the incident in question had occurred and considering the background of Petitioner No. 1 and the fact that she has files several cases which are politically motivated, the present incident in question did occur and obstruction to the public servant from carrying out duties along with attempt to murder with the use of weapons should be therefore viewed very strictly by this Court and the present Petition be dismissed.

8. I have heard the learned Advocates appearing for the parties at the Bar and perused the record of the case.

9. Insofar as Petitioner No. 2 is concerned, he is Advocate by profession. Petitioner No. 3 is a college going student. They are siblings of Petitioner No. 1 and children of Petitioner No. 4. The case of the prosecution is *prima facie* inconsistent because at the inception, it is stated that Petitioner No. 1 assaulted the first informant on her head because of which she suffered a fall and was injured in the head. The version of the prosecution case is improvised within 2 later when

further statements are recorded whey they state that Petitioner No.1 used an iron rod to assault the first informant whereas Petitioner No. 4 used the wooden stick to assault an accompanying lady PHC. Such inconsistency is *prima facie* clear and evident and needs to be considered at the threshold. The injury certificate classifies simple injury and it also states that further reference is made for treatment to Alibaug Civil Hospital but regarding such further reference, there is no material placed on record to show that any such treatment was ever taken.

10. Insofar as Petitioner Nos. 2 and 3 are concerned, there is no incriminating material which is coming out from the prosecution case whatsoever save and except to state that they both started shouting at the police personnel and restrained them from arresting Petitioner No. 1. The sum and substance of the prosecution case is that Petitioner Nos. 2 to 4 did not assist the Police Authorities in carrying out the arrest of Petitioner No. 1 who was visiting her family and about whom the information was conveyed to the police.

11. The record *prima facie* shows and proves the fact that Petitioner No. 1 has filed sensitive political complaints against the very influential political figure in the said area. There is *prima facie* material placed on record in the chargesheet which shows the nature and substance of these complaints which are extremely serious in

nature against the said political person. I need not detain myself by going into details of the same but it is *prima facie* evident that substantial serious complaints have been filed which can be seen from the material placed on record.

12. It appears that there are several high profile cases pending in Shriwardhan Court between the Petitioners and various parties Substantial WhatsApp messages exchanged between the parties including that of the political influential person *prima facie* show that there is substantial animosity between them. However, coming back to the present case and the FIR, it is seen that after perusing the same and the injury certificate appended at page No. 88 which *prima facie* classifies simple injury on the face of record and insofar as the other accompanying PHC lady constable is concerned, her injury certificate shows no injury at all. Hence I am inclined to consider and accept the submissions made by Petitioners in the present case. The statement which has been recorded and the case which has been made out for invocation of Section 304 of IPC for attempt to murder are therefore clearly invalid in the facts and circumstances of the present case. Section 164 statement of the Complainant is appended at page Nos. 67 and 69 which when *prima facie* seen clearly show that save and except the verbal altercation which had occurred, there is nothing placed on record to show that an attempt to murder was carried out.

13. The date of the incident is 20.08.2022 whereas the prosecution recorded further statements on 22.08.2022 and 24.08.2022 which clearly improved the statements recorded at the time of filing the FIR.

14. Considering the overall material which is placed before the Court, I am of the clear opinion that the case registered against the Petitioners is nothing but a fallout of political rivalry and even otherwise the material which is placed on record by the prosecution does not inspire the confidence of the Court at all. In that view of the matter and in view of the aforesaid observations and findings, present Petition stands allowed in terms of prayer clause (a) which reads thus:-

> *"(a) That this Hon'ble Court be pleased to issue any Writ / or Order or directive for quashing of F.I.R. bearing No. 0106/2022 registered at Shriwardhan Police Station and for quashing of Impugned Criminal Proceeding bearing R.C.C. No. 76/2022 pending before the learned Judicial Magistrate First Class at Shriwardhan."*

15. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Amberkar

RAVINDRA MOHAN AMBERKAR
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Date: 2026.10.22 11:32:53 +0530