

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1487 OF 2020**

Ankush Dattu Dhore & Ors.

.....Petitioners

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Sadashiv Deshmukh i/b Mr. Rakesh Sharad Patil a/w V. V. Tapkir & V. D. Tapkir for the Petitioners.

Mr. Ashish I. Satpute, A.P.P for the Respondent-State.

Mr. Vishal Laxman Kolekar for Respondent No. 2.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 5th AUGUST 2024.

PC.:-

1) The present case exhibits total non-application of mind by the Investigating Officer, resulting in innumerable and unfathomable harassment to the Petitioners, citizens of India.

2) Record reveals that, on the basis of a private complaint filed by the Respondent No. 2, the learned Joint Judicial Magistrate First Class, Vadgaon Maval, District-Pune passed an Order dated 5th February 2020 under Section 156(3) of Cr.P.C. directing investigation of the crime under Sections 417, 420, 467, 468, 471, 199, 200, 193(2), 504 & 506 read with 34 of the Indian Penal Code, 1860 (I.P.C.). Accordingly the Talegaon MIDC Police Station, Pimpri-Chinchwad lodged the present C. R. No. 22 of 2020

for the offence punishable under Sections 417, 420, 467, 468, 471, 191, 200, 504, 506 & 193 read with 34 of I.P.C.

3) While hearing the Petition, the following disturbing features came to our notice.

3.1) The First Information Report (F.I.R.) is a replica of private complaint lodged by the Respondent No. 2. The first line of the F.I.R. on Page No. 15 of the Petition reads as under :

“फिर्यादी मे न्यायालयास नम्रपणे कळवितो ते खालील प्रमाणे 1) मिळकतीचे वर्णन तुकडी पुणे पोट तुकडी मावळचे सब रिजस्टार यांचे हद्दीतील तसेच जिल्हा परिशद पुणे, पंचायत समिती मावळ यांचे हद्दीतील गांव मौजे इंदोरी, ता. मावळ, जि. पुणे येथील जमिन मिळकत अ) गट नं 383 यांसी क्षेत्र 01 हे 55 आर यासी आकार 05 रु 00 पैसे ब) गट नं 384 यांसी 03 हे 92 आर अधिक पोटखराबा 00 हे 44 आर असे एकुण क्षेत्र 04 हे 36 आर यासी आकार 11 रु 55 पैसे 2) वर कलम 1 यात वर्णन केलेली मिळकती हया फिर्यादी यांच्या वडिलोपार्जित मालकी हक्काच्या व आजमितीस प्रत्यक्ष ताबे वहिवाटीस आहेत.”

3.2) The last five lines of the F.I.R. on Page No. 16 of the Petition read as under :

“सदर घटनेबद्दलदेखील फिर्यादीने पोलीस स्टेशन एम.आय.डी.सी. तळेगाव दाभाडे ला अर्ज दिला त्यांनीकाही कारवाई केली नाही. तसेच पोलीस आयुक्तालय पिंपरी चिंचवड यांनी देखील तकारीची दखल घेतली नाही. म्हणून सदर खटल्यास कारण घडले व रोजचे रोज घडत आहे. 8) अधिकार क्षेत्र वर नमूद मिळकत ही गाव मौजे इंदूरी येथील असून त्याबाबत पोलीस स्टेशन आंबी एम.आय.डी.सी तळेगाव दाभाडे असून सदर तकारी बाबत खटला दाखल करून घेणे व न्याय देणे हे प्रस्तुतचे न्यायालयाचे अधिकार क्षेत्रात आहे. तरी मे न्यायालयाचे नम्र विनंती की, 1) फिर्यादी यांचा पुरावा व परिस्थिती लक्षात घेता आरोपी यांना फौजदारी कायद्यान्वयेत कडक शासन करण्यात यावे किंवा 2) किमिनल प्रोसिजर कोड, 1976 चे

कलम 156(3) अन्वये तपासकामि वडगाव मावळ पोलीस स्टेशनला आदेश देण्यात यावे किंवा 3) आरोपी विरुद्ध प्रोसेस इश्यु करण्यात यावे 4) इतर योग्य व न्याय हुकुम होणेस विनंती 5) जरूरत पडल्यास आणखीचे साक्षीदार देण्याची विनंती व्हावी.”

3.3) It is clear that, the concerned Officer has not even taken pains to record the F.I.R. properly and has just copied the text of Complaint as it is, in the proforma F.I.R.

3.4) At the time of filing of the Final Report under Section 173(II) of Cr.P.C., the Investigating Agency has maintained the following sections in it :

“417, 420, 467, 468, 471, 191, 200, 193, 504 & 506 read with 34 of I.P.C. and 4 & 25 of the Arms Act.”

4) Upon a query by the Court to the learned A.P.P., as to which is the said document to which Section 467 of I.P.C. is applied, we have been pointed out Page No. 305 of the Petition. The said document is an Affidavit filed by the Petitioner No. 2 before the Executive Magistrate, Taluka-Maval, District-Pune.

4.1) There is no allegation against any of the Petitioners that, they forged any document, which purports to be a valuable security or a will or an authority to adopt a son or to receive the principal, interest or dividends thereon or any other government instrument such as Bank Note, Hundi or Promissory Note and despite the said fact, Section 467 of I.P.C. is maintained in the Final Report by the Investigating Agency.

4.2) According to us, dragging persons in criminal cases implicating them in the offences which are clearly not made out, causes immense mental agony and harassment to the person accused of such an offence and also violates his fundamental right under Article 21 of the Constitution of India.

4.3) This is due to the sheer, obliviousness and non-application of mind by the concerned Officer. Section 467 of I.P.C. is the only section applied herein which is punishable with life imprisonment and therefore it changes the total complexion and/or gamut of the allegation against the Petitioners.

5) In view thereof, we deem it appropriate to bring the said fact to the notice of the Joint Commissioner of Police (Law and Order), Pimpri-Chinchwad, Police Commissionerate and direct him to file its reply to the present Petition and explain the aforestated points noted by us.

5.1) We direct the Joint Commissioner of Police (Law and Order) not to delegate his powers to any subordinate Officer/Officers for filing the reply.

5.2) If the Joint Commissioner of Police (Law and Order) finds that, in fact Section 467 of I.P.C. was not to be applied to the present crime, we request him to adopt appropriate remedial measures in that behalf and mention the same in his Affidavit.

- 5.3) The said Affidavit to be filed within a period of four weeks from today.
- 6) Stand over to 9th September 2024.
- 7) Ad-interim relief, if any granted earlier, to continue till then.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2024.08.16
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