

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1286 OF 2022

Navneet Ravi Rana and Anr. ...Petitioners
vs.
The State of Maharashtra and Ors. ...Respondents

Mr. Rizwan Merchant a/w Mr. Faiz Merchant a/w Mr. Faisal F. Shaikh -
Advocate for the Petitioner
Spl. PP Pradip P. Gharat a/w Ms. M. H. Mhatre - APP for the Respondent-
State

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 25th APRIL, 2022

P.C. :-

1. By consent of the learned counsel for the respective parties, the Petition is taken up for hearing disposal at the admission stage itself.

2. The principal prayer in the Petition is quashment of F.I.R. bearing Crime No. 506 of 2022 registered at Khar Police Station, Thane for the commission of offence under Section 353 of the Indian Penal Code.

3. Mr. Rizwan Merchant, the learned counsel appearing for the Petitioners in his detailed submission invited our attention to the documents placed on record. Mr. Merchant firstly, invited our attention to the First Information Report lodged at Khar Police Station bearing Crime No. 500 of 2022 on 23/04/2022 at 17.23 hours i.e. 05.23 p.m.. Now this

Crime is registered for commission of offence under Section 153-A read with 34 of the Indian Penal Code, with Section 37(1) of Maharashtra Police Act and Section 135 of the Maharashtra Police Act.

4. The perusal of the contents of report show, it is submitted in the report by the informant-complainant who is lawyer that since last few days some parties have initiated agitation raising an issue. Petitioner No. 1, who is, an elected Member of the Parliament and Petitioner No. 2 who is a Member of the Legislative Assembly of the State of Maharashtra. As such both these Petitioners are in active Social and Political life.

5. The Petitioners on the backdrop of these agitation made a statement that the Petitioners would be reciting religious verses i.e. Hanuman Chalisa in front of the personal residence of Shri Uddhav Thackeray, who is Chief Minister of the State of Maharashtra. On 22/04/2022, both the Petitioners reached Mumbai at 02.00 P.M. in their personal residence and they declared that they would be reciting Hanuman Chalisa in the personal residence, "Matoshri" bungalow of the Chief Minister. The Police official approached the Petitioners and informed that they should not indulge in any such act and a Notice under Section 149 was also issued and served on the Petitioners. It is stated in the report in spite of service of such notice, both the Petitioners gave the statements on visual medias and because of the statements of the Petitioners, there is an apprehension of

reaction in the society, and the acts of the Petitioners and the statements are resulting in serious threat to law and Order, as such action being initiated against the Petitioners.

6. Mr. Merchant, the learned counsel for the Petitioners submitted that on the backdrop of these contents the F.I.R. was registered and then the Petitioners in pursuant to the registration of F.I.R. i.e. 500 of 2022 registered at Khar Police Station, the Respondent – State authority proceeded to effect the arrest of the Petitioners. On the very day, at late hours of the day on 24/04/2022, second First Information Report i.e. F.I.R. No. 506 of 2022 registered against the Petitioners which is subject matter of the present Petition.

7. The learned counsel for the Petitioners then invited our attention to the contents of the report as the contents are read over by both the learned counsel in support of their submissions, we may reproduced them at a later part of our Order.

8. At this stage we may state that as per the contents of the report when the Police Officials proceeded over the effecting arrest of the Petitioners, the Petitioners resist this act and deter the Police Officials in discharging of their duties and accordingly, the offence under Section 353 of the Indian Penal Code was attracted in F.I.R. No. 506 of 2022.

9. Mr. Merchant, the learned counsel appearing for the Petitioners

vehemently submitted before this Court that both these FIRs are incidents occurred in a series of an events. It is submission of Mr. Merchant that the said F.I.R. No. 500 of 2022 may be at the most a prequel of the F.I.R. No. 506 of 2022.

10. Mr. Merchant also submitted that the F.I.R. No. 500 of 2022 and F.I.R. No. 506 of 2022 refers two different acts of very date i.e. 24/04/2022. In F.I.R. No. 500 of 2022 the time is referred as 10.00 a.m to 16.00 p.m. and in F.I.R. No. 506 of 2022 time is referred as 17.15 p.m. to 18.00 p.m..

11. It is further submitted by Mr. Merchant that F.I.R. No. 506 of 2022 is a series of incidence of earlier F.I.R. and as there was no registration of earlier F.I.R., the Respondent-State Authority could not have effected arrest of the Petitioners in the first F.I.R. Mr. Merchant, thus, ultimately submitted that the registration of F.I.R. No. 506 of 2022 against the Petitioners is wholly unsustainable and untenable act of the Respondents and it can be termed as a *void-ab-initio*.

12. Mr. Merchant also submitted that the Petitioners though have made a particular statement to do a particular act, the Petitioners have not done that act on the contrary the Petitioners considering the fact that there is scheduled visit of Hon'ble Prime Minister to Mumbai City declared that they are recalling their earlier decision. It was also submitted by Mr.

Merchant, the learned counsel for the Petitioners that the F.I.R. No. 500 of 2022 was not registered when the action was taken against the Petitioners. It is further submitted by Mr. Merchant that Officials of Respondent-State were present at the time of occurrence as referred to in F.I.R. No. 506 of 2022 that is from 17.15 hours to 18.00 hours and F.I.R. No. 500 of 2022 was not registered. Mr. Merchant then submitted that in view of these facts, the Respondent-State authorities ought not to have registered F.I.R. No. 506 of 2022 and at the most the contents of report in F.I.R. No. 506 of 2022 could have been a statement under Section 161 of Code of Criminal Procedure in pursuant to the earlier F.I.R. No. 500 of 2022.

13. In support of his submission, Mr. Merchant placed heavy reliance on the Judgment of the Apex Court in *T.T. Antony Vs. State of Kerala*¹ and *Ors.* as well as in the matter of *Amish Devgan Vs. Union of India*² Case as well as *Arnab Goswami's*³ Case.

14. Per contra Mr. Pradip P. Gharat, the learned Special Public Prosecutor vehemently submits that the incidence of these two F.I.R.s i.e. F.I.R. No. 500 of 2022 and F.I.R. No. 506 of 2022 are independent and difference incidents. It can not be stated that these two incidents as a part of one event nor it can be stated that this incidents to be treated as

1 (2001) 6 Supreme Court Cases 181

2 2020 SCC Online SC 994

3 Criminal Appeal No. 742 of 2020, decided on 27.11.2020

incidents forming a part of series of incidents.

15. The learned Special Public Prosecutor vehemently submitted that F.I.R. No. 500 of 2022 was registered on 23/04/2022 at 5.23 p.m. where as F.I.R. No. 506 of 2022 was registered on the next date i.e. on 24th April 2022 at 02.06 hours.

16. The learned Special Public Prosecutor then vehemently submitted that though the Petitioners subsequently recalled their decision, the declaration of the Petitioners of doing a particular act itself was a giving rise of apprehension to disturbance of law and Order and there was also threat of some reaction whereby the entire Government Machinery would have face a reciprocation of the statement of the Petitioners.

17. The learned Special Public Prosecutor then submitted that in the F.I.R. No. 506 of 2022, it is clearly revealed that when the Police Officials were repeatedly requesting the Petitioners, the Petitioners were not in a mood to hear the Police Officials. On the contrary in a passionate manner, the Petitioners flatly refused to co-operate the Police Officials. It is also submitted by the learned Special Public Prosecutor that if the Petitioners are law abiding citizens, there was no prohibition for them to extend the co-operation to the Police Authorities and to take appropriate legal steps against the action of the Respondents-Authority but the Petitioners, firstly, refused to co-operate the Officials then they started arguments with the

Officials when the Officials requested them to enter in the Police vehicle, the Petitioners gave threat to the Police Officials, it is submitted by the learned Special Public Prosecutor. At this stage this Court can certainly perused the contents of the report. After perusal it would clearly reflect that acts of the Petitioners attract the provision of Section 353 of the Indian Penal Code against the Petitioners.

18. It is also submitted by the learned Special Public Prosecutor that if the Petitioners are having any reason in the defense they can take such a defense opposing the action of the State-Authorities at an appropriate stage and certainly not at this stage when the F.I.R. is in question and investigation is in progress and at this stage quashment of the F.I.R. is sought for.

19. Considering the submissions of the learned counsel appearing for the Parties, we find considerable merits in the submission of the learned Special Public Prosecutor as the learned Special Public Prosecutor was justified while making reference to the First Information Report. We have perused the First Information Report it disclosed that the declaration of the Petitioners that they would recite religious verses either in personal residence of another person or even at a public place is firstly, not only breaching the personal liberty of another person but also encroachment upon other person's personal liberty and secondly, if a declaration is made

with a particular religious verses would be recited on the public street, the State Government is justified in carrying an apprehension that such act would result in disturbance of law and Order.

20. The Petitioners who claims to be active in their public and political life are expected to act with more responsible way. As it is oftenly said that “Great power comes with greater responsibility”. The expectation of responsible behaviour or responsible conduct from those person who are active in public life is cannot be an extra expectation but would be basic expectation.

21. Be that as it may, coming to the Second F.I.R. No. 506 of 2022 we have perused the F.I.R. clearly discloses that the acts referred to in F.I.R. No. 506 of 2022 is different set of events. We are unable to accept the submission of Mr. Merchant that these events are series of First Information on the contrary we find merits in the submission of the learned Special Public Prosecutor that once we expect these are two independent distinct different events and not a part of series of incidents or series of events, we see no reason or merits in the Petition to cause indulgence by this Court.

22. Accordingly, even though there cannot be any dispute on the proposition of law reflected in the judgment relied upon by Mr. Merchant, we are of the opinion in the present case these judgments are of no help

to the present Petition. The Petition being devoid of merits and deserves to be dismissed. Before parting, we may observe that as the second F.I.R. is registered against the Petitioners attracting of Section 353 of the Indian Penal Code, in case the State Government is desirous of initiating any action including the action against the Petitioners in pursuant to the F.I.R. No. 506 of 2022, the Officials of the State Government shall issue 72 hours notice to the Petitioners before taking such action.

23. With these observations, the Petition is dismissed and accordingly disposed of.

24. We further make it clear that the observations of this Court are on the backdrop of the prayer in quashment of the F.I.R. No. 506 of 2022 on particular submission made before this Court. The learned Court before whom the application filed for grant of bail by the Petitioners is pending shall not be influenced by these observations while considering the application for bail and decide the application on its own merits.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)