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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1278 OF 2011

Mukesh Prahlad Sonal (Soni)

...Petitioner.

Vs.

The State of Maharashtra

...Respondent.

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Mr. Manish N. Jain, for the Petitioner.

Mr. P.A. Pol, PP a/w Mrs. P.P. Shinde, APP  
for the State.

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CORAM: B. H. MARLAPALLE &  
U.D. SALVI, JJ.

JULY 29, 2011.

P.C.:

1. We have heard Mr. Jain, the learned counsel for the petitioner at length. Mr. Pol, the learned Public Prosecutor appears for the State of Maharashtra.

2. This Petition filed under Articles 226 and 227 of the Constitution of India, prays for the following reliefs:

(a) to issue a writ of mandamus or any other appropriate writ, order or direction in that nature directing the respondent nos.2

to 4 to appoint any other officer or any other appropriate police station to take necessary appropriate action on the letter/complaint written by the petitioner and his relatives, to investigate into the same and to take appropriate action against the respondent no.7 and his staff i.e. four constables.

(b) to direct the respondent nos.2 to 4 to take appropriate action against respondent no.7 in this case.

(c) to prosecute and punish respondent no.7 for defaming the petitioner.

(d) to prosecute the respondent no.7 for extortion and threatening to physically harm the petitioner.”

3. The petitioner is a jeweller and he has a jewellery shop by name Muksh Jewellers situated at Ghatkopar (West), Mumbai. He alleges that respondent no.7, who was at the relevant time sub-inspector of police, Rabale Police Station, Navi Mumbai reached his shop on 12.3.2011 at about 1.00 p.m. along with other police constables, and insisted the petitioner to follow him to the police station. It is further alleged that respondent no.7 was not in the police uniform and all other members of the team were also in civil dress. Despite his best efforts to invite their attention to the circular dated 24.7.2009, they insisted upon the petitioner to visit the police station, and respondent no.7 issued a letter on the spot calling upon the petitioner to visit the police station at 5.00 p.m. in

connection with the investigation in CR no.96 of 2011 registered with the Rabale Police Station, Navi Mumbai for the offence punishable under Section 379 read with Section 34 of the IPC. As per the petitioner, respondent no.7 is guilty of indiscipline and disregard to the circular issued by the Commissioner of Police, Mumbai dated 24.7.2009, and also human rights violation. The petitioner further alleges that respondent no.7 ill-treated and harassed him and he does not respect to the due process of law, and particularly in respect of the investigation of crime, and recording of statements of the witnesses.

4. In Criminal Writ Petition no.3034 of 2005, a Division Bench of this court passed an order dated 1.8.2007, directing the Additional Commissioner of Police, Mumbai to have a meeting with the two representatives of Bombay Suburban Jewellers' Association and evolve a proper procedure to ensure fair investigation within six months. Accordingly such a meeting was held with the representatives of the Association, and accordingly the circular dated 24.7.2009 was issued by the Commissioner of Police. The learned counsel for the petitioner alleged that respondent no.7 did not respect the said circular in spite of repeated plea of the petitioner.

5. The learned counsel for the petitioner, in support of his arguments submitted some CDs before us which we have viewed. Mr. Ashok Dudhe, Dy. Commissioner of Police-Zone I, Navi Mumbai has also filed the affidavit-in-reply after conducting an inquiry into the complaint submitted by the petitioner against respondent no.7, and has stated that there is no substance in the petitioner's complaint so as to proceed against respondent no.7.

7. So far as the CDs are concerned, we did not find any specific circumstance of mis-behaviour or illegal act on the part of respondent no.7 so as to call for an inquiry against him. The allegation that the police acted high-handedly is also not substantiated. The Dy. Commissioner of Police who conducted the inquiry has stated that in CR no.93/2011 two accused were arrested in connection with the offence punishable under Section 379 read with Section 34 of IPC, and at the time of their arrest they were found in possession of one motor-cycle and they had purportedly admitted to have committed chain snatching offences in the jurisdiction of Rabale Police Station. Accused no.1 allegedly agreed that he committed 11 offences of chain snatching and the booty had been sold to one jeweller by

name Sanjay Soni. During the investigation, 186 grams of gold was recovered at the instance of accused no.1. He purportedly admitted that some of the stolen property was sold to the petitioner on 11.3.2011. Accused no.2 had volunteered to show the place of the petitioner's business to whom he purportedly had sold the stolen property. On 12.3.2011 there was custodial interrogation of the accused, and was brought to the shop of the petitioner.

8. Thus, it is clear that respondent no.7 visited the shop of the petitioner on 12.3.2011 in connection with the investigation into the crime i.e. CR no. 96 of 2011 registered with the Rabale Police Station for the offence punishable under Section 379 read with Section 34 of IPC. Respondent no.7 was doing his duty and he issued the letter dated 12.3.2011 to the petitioner and obtained his signature as he refused to sign the panchnama. As far as his being in civil dress is concerned, this court has, time and again reiterated that the police officer on duty must be in the uniform.

9. The petitioner has also brought on record his complaint dated 12.3.2011 addressed to the Director General of Police, Maharashtra, and

we have perused the same. There is no allegation of mis-behaviour or ill-treatment against respondent no.7 and the complaint appears to have been signed by the petitioner as well as other shop owners.

10. For the reasons set out hereinabove, we do not find any substance to entertain this Petition for the reliefs prayed for, and therefore, it must fail at the threshold. The Petition is hereby rejected summarily.

(U.D. SALVI, J.)

(B. H. MARLAPALLE, J.)