



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4073 OF 2013

1. Vijayshree Vijay Godbole @
Jayashree Pandit
Age : 57 years, Occupation : Housewife,
R/at: Vishnu Kunj.
Kesar Baugh, Mulund (E)
Mumbai. 400081

2. Keerti Vijay Godbole
Age : 28 years, Occupation : Advocate,
R/at: Vishnu Kunj.
Kesar Baugh, Mulund (E)
Mumbai. 400081

... Petitioners

V/s.

1. Shrikant Eknath Pandit,
Age : 60 years, Occupation : Business,
R/at: Vishnu Kunj.
Kesar Baugh, Mulund (E)
Mumbai. 400081

2. The State of Maharashtra,
Through Navghar Police Station,
District Mumbai
being C.R.No.59/2013

... Respondents

Mr. Tapan Thatte a/w Mr. Akshay Dingale for the Petitioners.
Mr. Anilkumar Patil a/w Ms. Zeel Jain a/w Mr. Digvijay Patil, Mr. Ashishraj
Mane for Respondent No.1.
Mr. Y. M. Nakhwa, A.P.P. for Respondent No.2-State.

CORAM : RANJITSINHA RAJA BHONSALE, J.

RESERVED ON : 14th JANUARY 2026

PRONOUNCED ON : 10th APRIL 2026.

**JUDGMENT :-**

- 1) Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
- 2) By the present Petition, under Article 226 of the Constitution of India and Section 482 of Code of Criminal Procedure, 1973, the Petitioners seeks to quash the F.I.R. registered with Navghar Police Station, Mumbai bearing C.R. No. 59 of 2013 dated 18th May 2013, under sections 379 read with 34 of Indian Penal Code and the resultant charge-sheet bearing No. 14 of 2013 before the learned Judicial Magistrate First Class at Mulund and the Order dated 18th June 2016 passed by the learned Judicial Magistrate First Class at Mulund below Exh.1 in 430/PW/2016 be quashed and set aside.
- 3) Heard Mr. Tapan Thatte for the Petitioners, Mr. Anilkumar Patil for Respondent No.1, Mr. Y. M. Nakhwa, A.PP for Respondent No.2-State and Perused the record.
- 4) The case of the Respondent No.1 in the FIR is as under:
 - 4.1) The FIR has been filed by Mr. Shrikant Pandit i.e. Respondent No.1. It is the contention of the Respondent No.1 in the FIR that, the Vishnu Kunj is the ancestral property of the Respondent No.1, his brothers and the Petitioner No.1 herein. The said ancestral property is being divided into four parts. The elder brother of the Respondent No.1 i.e. Mr. Arvind Pandit is in possession of the portion in which the lodging activity is carried out. The brother Dilip Pandit (since deceased) has certain rooms in his possession



which have been given on rent. The Respondent No.1 looks after the Swami Samarth Math and hall. Petitioner No.1 is in possession of the second floor.

4.2) It is the case of the Respondent No.1 that, there are several proceedings pending in respect of the said property. That, the Petitioner No.1 his sister, though married does not stay with her husband but continues to reside in the said property. That, the Petitioner No.1 expects the monthly allowances for expenses which the Respondent No.2 does not pay and therefore there are certain disputes between the brother and sister.

4.3) That, the Respondent No.1 had lodged complaint against the Petitioner No.1 that she causes damage to the CCTV cameras and breaks/damages the tin-sheet of the house. Respondent No.1 contends that, he had for security reasons, installed eight CCTV cameras, out of which two CCTV cameras were installed on the terrace.

4.4) On 17th May 2013, Respondent No.1 and his family had been to Mumbai and after returning from Mumbai realised that the CCTV cameras are not working, as the screen was displaying, "No video" sign. As the Respondent No.1 became suspicious, he checked the available recording. It is the Respondent No.1's case that, as per the recording of 17th May 2013 (08.14 p.m. to 08.17 p.m.) two ladies are seen on the terrace. That, after seeing the said recording, Respondent No.1 observed that, the movements and conduct of the said two ladies was suspicious. That, the two ladies have taken the CCTV cameras. On closer scrutiny of the recording, the Respondent No.1



realized that the said two ladies could be his sister i.e. Petitioner No.1 and his niece i.e. Petitioner No.2 as there was a resemblance. On the basis of the said suspicion, FIR came to be lodged.

5) The investigation has been completed and the charge-sheet has been filed. Perusal of the charge-sheet indicates that, the Investigating Agency relied upon the statements of occupants of the building and one of the brother of the Petitioner No.1. Perusal of the statements would indicate that, the said witnesses have categorically stated that there were disputes amongst the parties. That, on perusal of the recording they were also of the opinion that, the two ladies who can be seen in the said recording were the Petitioners.

6) Learned Advocate for the Petitioners submits that, the F.I.R. was filed on the basis of suspicion and as there are several other proceedings pending between the parties. Perusal of the Photo's annexed to the chargesheet would raise a question of identity of the Petitioners. That, the brothers of the Petitioner i.e. Respondent No.1 and other brothers are making all efforts to illegally evict the petitioner from the ancestral property and present FIR is in aid of one of such attempts. Learned Advocate for the Petitioners has referred to certain incidents as referred to in the Petition at para 6 in support of the said contention.

7) Learned APP submits that, the Petitioners have not co-operated during the investigation and therefore they could not recover the CCTV cameras or the chair which has been seen in the CCTV recording. He further



submits that, the offence has been made out and the present matter would be a matter of evidence and veracity of the evidence ought to be tested at the trial.

8) A useful reference can be made to the decision of the Hon'ble Supreme Court in the case of *Central Bureau of Investigation Vs. Aryan Singh And Ors.*, reported in (2023) 18 SCC 399, where the Hon'ble Supreme Court has held that, the High Court cannot conduct a mini trial for appreciation of evidence on record, while dealing with an application under Section 482 of the Cr.P.C., as it is a mini trial and consider the applications as if those are against the judgment and Orders of the trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of criminal proceedings, while exercising powers under Section 482 of the Cr.P.C., the Court is not required to conduct a mini trial.

9) The Hon'ble Supreme Court in the case of *Iqbal alias Bala and Ors. Vs. State of Uttar Pradesh and Ors.*, reported in (2023) 8 SCC 734, in para No.7, has held that, although the allegations levelled in the F.I.R. does not inspire any confidence more particularly in the absence of any specific date, time, etc. of the alleged offences, yet the Hon'ble Supreme Court was of the view that, the Appellants therein should prefer discharge application before the trial Court under Section 227 of the Criminal Procedure Code (Cr.P.C.), as the investigation was over and chargesheet was ready to be filed before the competent Court. That, in such circumstances, the trial Court should be



allowed to look into the materials which the Investigating Officer might have collected forming part of the chargesheet.

10) I have noted that observations of the Supreme Court in paragraphs 6 and 7 in the case of *Iqbal alias Bala V/s. State of U. P. reported in (2023) 8 SCC 734* which read as under:

“6. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether we should quash the FIR?

7. It is relevant to note that the victim has not furnished any information in regard to the date and time of the commission of the alleged offence. At the same time, we also take notice of the fact that the investigation has been completed and charge-sheet is ready to be filed. Although the allegations levelled in the FIR do not inspire any confidence more particularly in the absence of any specific date, time, etc. of the alleged offences, yet we are of the view that the appellants should prefer discharge application before the trial court under Section 227 of the Code of Criminal Procedure (CrPC). We say so because even according to the State, the investigation is over and charge-sheet is ready to be filed before the competent court. In such circumstances, the trial court should be allowed to look into the materials which the investigation officer might have collected forming part of the charge-sheet. If any such discharge application is filed, the trial court shall look into the materials and take a call whether any case for discharge is made out or not.”

11) The decisions of the Hon'ble Supreme Court in the aforementioned cases are squarely applicable to the present case. The contentions of the



Petitioners would be the defence of the Petitioners. Even though the FIR has been lodged on the basis of the suspicion, the statements of the brothers of the Petitioner No.1 and the persons staying in the building seem to have identified the Petitioners, on the basis of their body structure/ movements. Under Section 482 it would not be permissible to enter into the arena of testing the evidence or conducting a mini trial. The veracity of the statements of the witnesses is to be tested at the trial and the Petitioners would also have an opportunity to cross-examine the said witnesses. In the present case, the investigation is over and charge-sheet is filed. I am of the opinion that, considering the peculiar facts of the present case, no case is made out which calls for exercise of jurisdiction under Section 482 of the Criminal Procedure Code. What the Petitioner raises is his defence, which can only be tested or tried at the trial. The defences raised by the Petitioners are all required to be raised in evidence at the trial. I am of the opinion that, the Trial Court should be the Court, which should be allowed to look into the material, which forms part of the chargesheet. In view of the above, I do not find any reason to entertain the Petition for quashing.

12) As highlighted earlier, the Hon'ble Supreme Court in *Iqbal alias Bala v. State of U.P. (supra)* observed in paragraph No. 7 that when FIR allegations fail to inspire confidence particularly due to the absence of specifics regarding date, time, etc. the appellants should seek their remedy via a discharge application under Section 227 of the Criminal Procedure Code.



Now that the investigation is complete and the chargesheet has been filed before the competent Court in the instant matter, the procedural stage envisioned by the Hon'ble Supreme Court has been reached. Therefore, it is for the Trial Court to scrutinize the materials and evidence collected by the Investigating Officer.

13) In the aforesaid facts and circumstances and after considering the law as enunciated by the Hon'ble Supreme Court, I am of the view that the Petitioners have not made out any case for exercising the powers under section 482 of the Criminal Procedure Code.

14) In view thereof, the petition is dismissed. The Petitioners are at liberty to prefer discharge application before the concerned trial Court.

(RANJITSINHA RAJA BHONSALE, J.)