

ITEM NO.36

COURT NO.16

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 7208/2019

(Arising out of impugned final judgment and order dated 16-07-2019 in CRLA No. 692/2019 passed by the High Court of Judicature at Bombay At Aurangabad)

CHANDRAKANT & ANR.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

(IA No. 121054/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 121055/2019 - EXEMPTION FROM FILING O.T.)

Date : 07-02-2020 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Sudhanshu S. Choudhari, AOR

For Respondent(s) Mr. Shashibhushan P. Adgaonkar, AOR
Mr. Gagandeep Sharma, Adv.
Ms. Pradnya S. Adgaonkar, Adv.
Mr. Rana Sandeep Bussa, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This is a petition for quashing of FIR No.0010/2019 under Sections 354(1)(W)(1)(2), 323, 34 3(1)(R)(s)3(1)(W)(i)(ii)3(1)(ZA)(A)3(2)(5)(a) and 506 of IPC.

According to the petitioners, the true facts are that it was the petitioner No.1 who was badly beaten up on 21.11.2018 by his neighbours who are accused in the said case. He lodged FIR No.0230/2018 under Sections 326, 323, 504, 506, 34 of IPC on 08.12.2018. According to him, he was in hospital because of his beating he suffered. The case of the petitioners is that the complainant in FIR No.010/2019 was lodged by the complaint only on 14.01.2019 at the instance of her employers who are the accused in

the FIR filed by him. He, therefore, states that it is an abuse of process of the Court and the FIR deserves to be quashed.

At this stage, we are not going into the merits of the case. Whether the FIR is delayed or not or whether such delay is explained properly are matters to be dealt with by the trial Court. However, admittedly, the occurrence took place on 21.11.2018 the first complaint even according to the complain was made after 5 days. This is rather an extraordinary case where though there are serious allegations made against each other but there is delay of 5 days. Keeping into consideration this fact, though, we are not inclined to quash the proceedings, we direct that the petitioner shall not be arrested and shall be released on bail on such terms and condition as may be fixed by the Trial Court.

We make it clear that we have passed the order in view of the fact that a three Judge Bench of this Court in "Union of India Vs. State of Maharashtra, 2019 (13) SCALE 280: while holding that the directions (iii) and (iv) in "Dr. Subhash Kashinath Mahajan Vs. The State of Maharashtra and Anr. (2018) 6 SCC 454" case deserve to be recalled did not recall, directions (i) and (ii). According to us, this case falls squarely within the ambit of direction (i) and (ii).

In view of the above, the special leave petition is disposed.
Pending applications, if any, stand disposed of.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(PRADEEP KUMAR)
BRANCH OFFICER