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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 29 OF 2010

Samir Zaveri. ..Petitioner.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Samir Zaveri is present.
Mr. Rajiv Singh i/b M/s. Sanjay Udeshi & Co., for the petitioner.
Mr. P. A. Pol, PP for the State.
Mr. M. Panchakshari i/b Mr. Sandeep K. Shinde for R-2.
Mr. Suresh Kumar for R-3.

Coram : SMT. RANJANA DESAI &
RANJIT MORE, JJ.

Date : **August 4, 2011.**

P. C. :

1. Mr. Samir Zaveri, petitioner is present in the Court. He made a grievance that because he has filed the instant PIL filed, he has been receiving threats from the antisocial elements. According to him, when he went to Nagpada Police Station, officers of Nagpada Police Station refused to take down his complaint and on the contrary ill-treated him. We, therefore directed Mr. Pol, learned Public Prosecutor to call Senior Police Inspector of Nagpada Police Station and Mr. Dasharath Kambale, Police Sub-Inspector of Nagpada Police

Station to the Court. Accordingly both are present in our Court today.

2. Mr. Zaveri has drawn our attention to the order dated 7th May 2010 passed by the Division Bench presided over by Justice F.I.Rebello in Writ Petition No.466 of 2010. In paragraph 4 thereof, it is stated that the State shall make provision of investigating the cases by senior police officers not below the rank of Assistant Commissioner of Police or Deputy Commissioner of Police in case there are allegations and or reports of threats and attacks against individual social activists and or collective organisations. Mr. Zaveri submitted that Nagpada Police Station officers were duty bound to follow these directions. There is some substance in Mr. Zaveri's contention. Mr. Pol has made a statement on instructions from Senior Police Inspector of Nagpada Police Station that in terms of paragraph 4(i) of the order dated 7th May 2010 passed in Writ Petition No. 466 of 2010, the police will investigate the complaint of Mr. Zaveri as regards the threats given to him by anti-social elements. In view of this statement, it is not necessary to pass any order in that behalf.

3. Insofar as Mr. Zaveri's request for police protection is

concerned, our attention is drawn to the letter of Railway Commissioner recommending the case of Mr. Zaveri for police protection. The recommendation is dated 10/1/2011. Mr. Pol informed us that for police protection, Mr. Zaveri has to approach Protection and Security Branch of Mumbai Police. Mr. Zaveri may, if he so desires, approach the said branch of Mumbai Police. If such an application is made, the Protection and Security Branch of Mumbai Police shall after taking into consideration the facts of the case and after evaluating the threat perception take decision thereon and communicate it to Mr.Zaveri.

4. In this Public Interest Litigation, Mr. Samir Zaveri, Director - Accident, Mumbai Suburban Railway Passengers' Association has made a grievance that RPF officials during the line of their duty, misuse the powers conferred upon them under Section 147 and 145(b) of the Railways Act, 1989. According to him, innocent passengers are arrested illegally; they are detained and thereafter they are charged under sections 147 and 145(b) of the Railways Act, 1989. They are taken to fake Courts where one of the Officers of the RPF acts as a Magistrate. The passengers are made to pay money as bail bond amount and

the said amount is not deposited in the Court. Mr. Zaveri has given certain instances. We find from the affidavit of Tukaram A. Chavan, Commissioner of Police, Railways that there is substance in the allegations made by Mr. Zaveri. Mr. Chavan has confirmed major part of Mr. Zaveri's case. It appears that the Departmental Enquiry is initiated against one Sanjay Sing, Inspector, CLA, Kurla, Amit Kumar Jha, CLP, Kurla, P.P. Singh, Police constable of CLA. Learned counsel for the Railways is not able to tell us what is the exact stage of enquiry. He shall obtain necessary instructions and make statement on the next date of hearing. We are informed that these officers are transferred to some other stations. Mr. Pol, learned PP informs us that criminal cases have been registered against these officers.

5. Mr. Pol informs us that total 27 persons are involved in this case. Two of them are Mr. Rajesh Sinh and Mr. S. R. Tripathi, constables, who are presently posted at Ahmednagar and Nashik respectively. We are surprised at the statement of learned PP that there is no co-operation from these persons. We are informed that they are not coming to Mumbai. We do not understand why the investigating agency should wait for these two constables to come to Mumbai and why its officers

cannot go to Ahmednagar and Nashik. We disapprove of this conduct of the investigating agency.

6. Another difficulty in the way of investigating agency is that Byculla Railway Printing Press is not co-operating with the police. Investigating agency wants to know from Byculla Railway Printing Press the details of supply of printed formats of bail bond to Railway Police Stations. Report dated 12/1/2011 to that effect submitted by P.I. Korde is tendered in the Court. Copy of the same is taken on record and marked "X".

7. Mr.K.Arulvelan, Assistant Manager, Printing & Stationery, Central Railway, Byculla, Mumbai is present in our Court today. He states that henceforth his office will co-operate with the police. This statement is accepted. Necessary steps in investigation be taken forthwith. Report of further investigation be submitted to this Court on the adjourned date.

8. We are also informed that sanction to prosecute the afore-mentioned police personnel has to be obtained and therefore prosecution cannot be initiated. We are informed that unless the investigation is completed, no application for sanction can be made. Mr. Chavan, Commissioner of Police, Railways has stated in his affidavit as under :

“12. I say that under the provision of Section 45 of Cr.P.C. the protection is given to the members of the Armed Forces from arrest. The petitioner has produced the various names of the RPF officers and personnel required to be inquired into said office investigation.”

9. It appears from the affidavit of Mr. Chavan that the investigating agency is unable to arrest the accused. On the next date of hearing, Mr. Pol shall address us on the aspect of sanction.

10. Adjourned to 11/8/2011.

(Ranjit More, J.)

(Smt. Ranjana Desai,J.)