HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 612 OF 2018

Mr. Mukesh W. Siyal .. Applicant
Versus
State of Maharashtra and ors. .. Respondents

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- Mr. Manish N. Jain i/by S. M. Jain Associates, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent No.1 – State.
- Mr. D. P. Mane, PSI, Kasturba Marg Police Station present in Court.

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CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 10, 2026

P.C.:

1. Heard Mr. Jain, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent No.1 – State.

2. Applicant seeks quashing of FIR and chargesheet bearing C.C. No.1012/PW/2018 in FIR No.76 of 2018 filed under Sections 353, 504 and 506 of Indian Penal Code, 1860 registered with Kasturba Marg Police Station, Borivali East. Respondent No.2 – Complainant is a Police constable. Applicant has a jewellery business at Chembur in the name of Ambika Jewellers.

3. Applicant was intercepted on 04.02.2018 at 07:00 pm on Dattapada road, Borivali East where Applicant had halted his motorcycle in front of the public toilet to answer nature call. Respondent No.2 – Complainant asked Applicant to produce vehicle

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papers along with license and after checking the same returned back the papers without license and left the incident spot.

4. It is the prosecution case as per Complainant's statement that Applicant misbehaved with the Complainant, held his shirt collar, threatened and intimidated him under fear of assault. Contrary to this, it is Applicant's case that Complainant a constable with Mumbai Police did not return his license and threatened Applicant of foisting a criminal case against him for driving the motorcycle without helmet and instead called upon Applicant to either pay Rs.500/- towards penalty for getting back the license or pay Rs.300/- as bribe for resolving the entire issue.

5. According to Applicant an altercation occurred on the road in the public place and when Applicant attempted to contact and issue message to the Police Commissioner and higher-ups of the Complainant, it angered him most. Applicant has further stated that he went to the Police Station and attempted to lodge an NC against the Complainant which was initially taken down by one constable called Smt. Gavit, but she was not allowed to do so by the Complainant and another constable called Prashant Kathane and Applicant was detained in the Police Station from 8:00 pm to 2:00 am.

6. I have perused the entire record and material which is placed before Court and argued by learned Advocate for Applicant. It is *prima*

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facie seen that Applicant has recorded the entire incident on his mobile phone camera with regard to the Complainant having not returned his license back to him and about the demand of Rs.300/- to be paid to him for getting back the license. Further transcript of the WhatsApp conversation and messages exchanged by the Complainant with the Police Officers and the higher-ups with regard to the incident in question and what precisely transpired in the Police Station, *prima facie,* show that the Complainant and his colleagues have been instrumental in foisting a false case of criminal intimidation against the Applicant.

7. The Statement of the Complainant - Ajay Dinkar Pawar is appended at a page No.21 of application and on reading the same it is *prima facie* unbelievable that in the facts and circumstances narrated therein, Applicant will hold the shirt collar of the Complainant who is a Police constable and threaten him in a public place. The said statement of the Complainant *qua* the Applicant merely relates to Applicant riding the motorcycle without helmet. It consciously avoids the issue relating to snatching of license because no Police constable has the power to confiscate the license if the motorcycle rider rides the motorcycle without his helmet. The 3 witness statements of rickshawwallas recorded by the prosecution are identical but do not inspire any confidence of the Court either. They *prima facie* appear to be interested witnesses and not independent witnesses.

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8. The allegation in the complaint that Complainant – Police constable merely stopped the Applicant and pointed out that he was riding without his helmet due to which it is alleged that the Applicant got angered, got down from his motorcycle, held the collar of the constable's shirt and hurled abuses in filthy language against the Complainant are *prima facie* unbelievable on the face of record.

9. It is the case of the Applicant that his helmet was very much with him but the Police constable snatched his license after checking it and left the incident spot after which the Applicant followed him for getting back his license. It is seen that statement of independent witnesses either at the incident site which occurred at 7:00 pm in the evening on the public road have not been recorded so as to believe the prosecution's case neither the statement of Smt. Gavit has been recorded or what transpired in the Police Station thereafter has been recorded through an independent eye-witness.

10. In view of the above, it is *prima facie* clear that the prosecution story is completely unbelievable. It is seen that Applicant was made to wait and detained from 8:00 pm in night until 2:00 am when the FIR was registered and it is the case of Applicant that between this time he was handcuffed and made to stand in one corner of the Police Station and was constantly abused by the Policemen inside the Police Station.

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11. In order to believe the aforesaid story as to who is right, the only way to ascertain the veracity of the same would be to consider the CCTV footage of the Police Station about the harassment meted out to the Applicant or to believe otherwise. Prosecution case is that no independent witnesses statement have been recorded and the CCTV footage which should have been preserved is not available according to prosecution. In such circumstances the prosecution story is not only unbelievable but in my opinion it is a false and concocted story and case foisted on the Applicant.

12. The Application is therefore allowed in terms of prayer clause 'B' which reads:-

> *"B. To quashed and set aside the chargsheet in C.C. NO. 1012/PW/2018 pending before Ld. Metropolitan Magistrate 68th Court, Borivali Court, Mumbai in F.I.R. No. 76 of 2018 U/S 353, 504, 506 of I.P.C. registered in Kasturba Marg Police Station Borivali East against the Applicant."*

13. It is further clarified that C.C. No. 1012/PW/2018 pending before Ld. Metropolitan Magistrate 68th Court, Borivali Court, Mumbai in FIR No. 76 of 2018 U/s 353, 504, 506 of I.P.C. is therefore quashed and set aside.

14. The license of the Applicant if confiscated, shall be returned back to the Applicant forthwith by the Police / Court where the license is kept on the basis of the server / certified copy of this order downloaded from the website of the Bombay High Court.

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15. Criminal Application is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR

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