IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1680 OF 2015

Mr. Vinod D. Gangwal }
Aged - 44 years, Residing at }
K-102, Hawares Splendor, }
Sector 20, Kharghar, }
Navi Mumbai - 410210 } Petitioner

versus

1. State of Maharashtra }
Through P. P. High Court }
P. P. Office, Bombay High Court }
Mumbai }
}
2. Mr. Sunil Balbhim Darekar }
Crime Police Inspector, }
Kharghar Police Station, }
Kharghar, Navi Mumbai }
}
3. Mr. Pandharinath Narayan }
Patil }
Senior Police Inspector, }
Police Station Kharghar, }
Navi Mumbai }
}
4. Mr. Seshrao Suryavanshi }
(Assistant Commissioner of Police }
Office of Assistant Commissioner }
of Police, Panvel }
}
5. Deputy Commissioner of Police }
Zone - II, Office of DCP Panvel }
Panvel, Navi Mumbai }
}
6. Commissioner of Police }
Office of CP, CBD Belapur }
Navi Mumbai, Maharashtra } Respondents

WITH
WRIT PETITION NO. 5090 OF 2014

Mr. Vinod D. Gangwal }
Aged - 44 years, Residing at }
K-102, Hawares Splendor, }
Sector 20, Kharghat, }
Navi Mumbai - 410 210 } Petitioner

versus

1. State of Maharashtra }
Through P. P. High Court }
P. P. Office, Bombay High Court, }
Mumbai. }
}
2. Mrs. Tara Bai Kailash }
Wankhede }
KH-1, Building No. 2, }
Room No. 204, Vastu Vihar, }
Sector 16, Kharghar, }
Navi Mumbai. }
}
3. Mr. Pandharinath Narayan }
Patil }
R/at Room No. 302, }
Arshana Building, Sector 15, }
Kalamboli, Navi Mumbai. }
}
4. Mr. Sunil Balbhim Darekar }
R/at KH-1/18/203, Vastu Vihar, }
Sector 16, Kharghar, }
Navi Mumbai. }
}
5. Mr. Sanjay Shankar Lokhande }
B Wing, 4/29, Yogendra }
Apartment }
Kate Manwali Naka, Koleswadi, }
Kalyan (East) }
}
6. S. P. Shewale, P. S. I. }
(Kharghar Police Station), }
Kharghar, Navi Mumbai }

7. Mr. Seshrao Suryavanshi }
(Assistant Commissioner }
of Police) }
Office of Assistant Commissioner }
of Police, Panvel }

8. Deputy Commissioner of Police }
Zone – II, Office of DCP Panvel, }
Panvel, Navi Mumbai }
}
9. Commissioner of Police }
Office of CP, CBD Belapur }
Navi Mumbai, Maharashtra } Respondents

Mr. Vinod D. Gangwal – Petitioner-in-person.

Ms. S. V. Sonawane – APP for Respondent Nos. 1, 5 and 6 in WP(Cri.)/1680/2015 and for Respondent Nos. 1, 8 and 9 in WP(Cri.)/ 5090/2014.

Mr. V. V. Yadav with Mr. Vinod Chate i/b. M/s.Chate and Associates for Respondent Nos.2 and 3 in WP(Cri.)/1680/2015 and for Respondent Nos. 3 to 5 in WP(Cri.)/ 5090/2014.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

Reserved on :- OCTOBER 7, 2015
Pronounced on :- OCTOBER 30, 2015

Judgment :- (Per S.C.Dharmadhikari, J.)

Rule. Respondents waive service. By consent, Rule in both the Petitions made returnable forthwith.

2) By this Petition (WP(Cri.)/1680/2015) under Article 226 of the Constitution of India and invoking section 482 of the Code of Criminal Procedure, 1973 (for short the "Cr. P. C."), the Petitioner challenges the order passed on 7th March, 2015. That order is to the following effect:-

> "**ORDER**
>
> Heard learned counsel for complainant at length.
>
> The allegations made are very serious which require thorough investigation. The IO would on investigation, if comes to conclusion about its truthfulness, proceed, or else not.
>
> After making of such allegations and on hearing the complainant the Court is duty bound to order investigation. The case/complainant cannot be heard summarily and disposed off.
>
> Hence in interest of justice the police to investigate the offence u/s. 156(3) Cr. P. C. and file report. The CP to appoint authorised officer as per the SC/ST Act to investigate it."

3) The challenge to this order arises out of the following facts and circumstances:-

The Petitioner is a journalist, social worker and Advocate and has raised several social issues. He has filed many Public Interest Litigations in this Court. He has published various articles through Mukt Bharat Newspaper and other various newspapers.

4) Respondent No. 1 is State of Maharashtra, respondent No.2 is Mr. Sunil Balbhim Darekar and Respondent No. 3 is Senior Police Inspector of Kharghar Police Station, who helped Respondent No. 2 to register false complaint against the Petitioner. Respondent No. 4 is Assistant Commissioner of Police, Zone – II, Navi Mumbai. Respondent No. 5 is Deputy Commissioner of Police, Zone – II, Navi Mumbai. Respondent No.6 is Commissioner of Police and is in-charge and responsible for day to day affairs and all the activities of Navi Mumbai Police Commissionerate.

5) The Petitioner approached this Court for quashing an order dated 7th March, 2015 directing investigation under section 156(3) of the Cr. P. C., reproduced above.

6) That order has been passed by the learned Judicial Magistrate, First Class, Panvel on 7th March, 2015. That order has been passed on the complaint of one Mr. Sunil Darekar posted as Police Inspector, Kharghar Police Station. That complaint is numbered as Criminal Miscellaneous Application No. 177 of 2015. By the said complaint, the complainant has alleged that the Petitioner has committed offences punishable under sections 353, 186, 506 of the Indian Penal Code, 1860 (for short the "IPC") and sections 3(viii)(ix)(x) and (xi) of the Scheduled

Castes and the Scheduled Tribes (Prevention of Atrocities Act, 1989 (for short the "SCST Act").

7) The complainant alleges that he has been posted at Kharghar Police Station from June, 2014. He states that he belongs to Mahadev Koli Scheduled Tribe.

8) It is alleged by him that a crime was registered, being FIR No. 345 of 2014 on 23rd November, 2014 at Kharghar Police Station. That alleged offence punishable under section 376 of the IPC. It is alleged that the Petitioner, without taking anybody's permission, entered the police station. He started clicking photographs of the victim in Crime No. 345 of 2014. The Petitioner was projecting as if he is a reporter of some television channel while clicking the photographs. The complainant in the FIR/Crime No. 345 of 2014 objected to the Petitioner taking photographs. The Petitioner pushed her and at that time, the Assistant Police Inspector and Police Inspector Mr. Patil were trying to explain to the Petitioner that he and his associate Mr.Bohra should not behave like this, but both of them started arguing in a high pitched tone with the police officials and obstructed their official work.

9) The complainant then alleges that he was entrusted with the investigation in the offences alleged against the Petitioner by Tarabai Wankhede, complainant in FIR No. 345 of 2014. On Tarabai's complaint, the Petitioner was impleaded as an accused and for offences punishable under sections 354, 353 and 34 of IPC and section 120 of the Maharashtra Police Act, 1951. The complainant alleges that he was handling these investigations and in a sensitive case very patiently. He was also very considerate and allowed the Petitioner to take home food and medicines during the course of investigation. However, the Petitioner asked him as to how the complainant has become a police inspector and at such a young age. At that time, the complainant replied that he belongs to Mahadev Koli Seheduled Tribe.

10) The complainant alleges that the Petitioner was behaving very arrogantly during the course of investigation and always threatening Mr. Darekar by stating that he had contacts with the Police Commissioner and Ministers etc. The Petitioner is alleged to have said that after his release, he would show the complainant his place.

11) The complainant states that all this has been entered by him in the case diary. It is then alleged that the Petitioner was

enlarged on bail on 27th November, 2014. On both occasions, when he was being produced before the Court, the Petitioner misbehaved with the police officials. The Petitioner also tried to complain against police officials. After referring to the complaints by the Petitioner, the complainant alleges that the investigations in the complaints lodged by the Petitioner have been stayed by this Hon'ble Court.

12) There have been incidents, according to the complainant, when the Petitioner behaved arrogantly during Court proceedings. He narrates one such incident. On 22nd January, 2015, it is stated that during the course of the proceedings and when the complainant was returning after finishing his work in the Court, within the Court premises and in the presence of police constables, some Advocates and others, the Petitioner is alleged to have said that the complainant belongs to a backward tribe and has been appointed as police officer by sheer luck. The Petitioner is supposed to have then said that he would ensure that the complainant's services are put to an end. That is how the complainant alleges that the Petitioner intentionally insulted him and intimidated him with an intent to humiliate, as the complainant is a member of a Scheduled Tribe. This is done in a place within public view. The complainant also

alleges commission of offence punishable under section 31(viii) (ix) of the SCST Act. The complainant states that he narrated this incident to his superior Mr. Patil, but Mr. Patil told him to take things a little easily. However, the complainant states that he was apprehending further false complaints and harassment and that is how the offences punishable under the SCST Act have been committed. The complainant also alleges obstruction or interference in public duty of the complainant, who is a public servant. It is further alleged that this incident was repeated on 7th February, 2015.

13) It is on such complaint in writing that the learned Judicial Magistrate, First Class, after perusing the same and hearing the complainant at some length, held that the allegations made are very serious. They require thorough investigation. The Investigating Officer, on investigation, would satisfy himself about the truthfulness of the same and thereafter proceed in accordance with law. Else, he would not be required to so proceed. However, the learned Judicial Magistrate, First Class observed that on such allegations and after hearing the complainant, the Court is duty bound to order investigation. The case cannot be summarily disposed of. It is in these circumstances that the learned Judicial Magistrate, First Class

held that in the interest of justice, the police should investigate the offences, under section 156(3) of the Cr. P. C. and file a report. The Commissioner of Police has to appoint an authorised officer as per the SCST Act to investigate it.

14) It is this order, copy of which is at page 16 of the paper book, which is challenged in this Petition.

15) The Petitioner would submit that the complaint read as a whole does not disclose commission of any offence. He would submit that the impugned order is vitiated by an error of law apparent on the face of the record. The learned Judicial Magistrate, First Class, Panvel, without applying his judicial mind, passed the impugned order mechanically. The Petitioner submits that the version of the complainant is not truthful, but entirely fanciful. None would dare to misbehave with a police official within the Court premises. More so, when there is a bodyguard accompanying the complainant. It is clear that the complainant holds grudge against the Petitioner.

16) The most important and primary submission of the Petitioner is that the learned Judicial Magistrate, First Class did not appreciate that he had no jurisdiction to pass an order on the complaint particularly directing investigation under section

156(3) of the Cr. P. C. Our attention has been invited by the Petitioner appearing in-person to sections 14 and 15 of the SCST Act to submit that the offences punishable under the SCST Act are triable by a Court of Sessions. That is designated as the Special Court under Chapter – IV of the SCST Act. Therefore, the learned Judicial Magistrate, First Class has no jurisdiction to take cognizance of the complaint and pass any order on it. In other words, the jurisdiction of the Special Court is exclusive. The learned Judicial Magistrate, First Class therefore should not have taken note of the allegations in the complaint and pass an order under section 156(3) of the Cr. P. C. He lacked jurisdiction to do so.

17) Apart therefrom, it is submitted by the Petitioner that he is a respectable citizen. He is an Advocate. One of his friend called him up because the Petitioner in the past worked as a journalist. He is a socially conscious citizen. His friend informed him that the domestic help working with the Petitioner's friend complained to the Petitioner's friend that police are not taking any cognizance of an assault on a three year old grand daughter of the Petitioner's friend's domestic help. Once the victim is the daughter of the lady servant working at the Petitioner's friend's house, the Petitioner being a journalist that naturally his friend

called him up. That is how the Petitioner came to the police station and requested the police officer Lokhande to register the FIR. The Petitioner submits that he noticed grave irregularities at the said police station. There was no female officer present for recording and taking down the complaint. The Petitioner apprehended that the accused in that crime are highly connected and influential people. They would want the police to hush up the matter. That is how he was impressing upon the police officials to be sensitive and careful and not be influenced by any money or muscle power. It is in such circumstances that the Petitioner might have been agitated, but at no stage he was intimidating, threatening, much less insulting any police official. In these circumstances, the FIR does not disclose commission of any offence. The complaint is an abuse of the process of the Court and has been registered only to take revenge and spite the Petitioner. It is in these circumstances that he would allege that none of the ingredients of offences punishable under sections 353, 186 and 506 of IPC or offences punishable under the SCST Act are attracted. For all these reasons, he would submit that the Petition be allowed.

18) The Petitioner-in-person has also filed a Writ Petition (Cri.) No. 5090 of 2014. In that, the Petitioner questions FIR

No.346 of 2014 registered at Kharghar Police Station, implicating him as an accused and alleging that he is guilty of offences punishable under sections 353, 354, 504, 506 and 34 of IPC and section 120 of the Maharashtra Police Act, 1951.

19) It would be relevant to note the allegations in the said complaint. There, complainant Tarabai Wankhede alleges that the Petitioner came to the police station. Tarabai Wankhede came to the police station because she resides with her husband at KH-1, Room No. 204, Vastu Vihar, Sector 16, Kharghar, Navi Mumbai. She submits that she resides with her husband. She has three sons and one daughter. Once of her sons is named as Ratnakar Kailas Wankhede. He resides along with his wife Sapna and daughter victim (granddaughter of Tarabai) at KH-1, Building No. 11, Room No. 302, Kharghar, Navi Mumbai. Complainant Tarabai alleged that on 23rd November, 2014, a bus driver misbehaved with her granddaughter/victim. That is why Tarabai, her daughter-in-law Sapna, her son Ratnakar and the granddaughter/victim came to Kharghar Police Station to register a complaint. The police officials accompanied them to the scene of offence and thereafter they caught the bus driver who misbehaved with the granddaughter/victim and brought him to the police station. At that time, two persons also came to the

police station. Once of them (the Petitioner) started clicking photographs from his mobile phone. The complainant alleges that she does not know the Petitioner. However, the complainant then alleges that the Petitioner was talking arrogantly with them. He was stating that he would upload these photographs on WhatsApp and thereafter he would tarnish reputation of the complainant and the police. The Petitioner was also misbehaving with and talking arrogantly to police inspector Lokhande. He was also trying to push him. He was also trying to record something opposite the cabin of the senior police official and at that time, senior police Mr. Patil tried to intervene, but the Petitioner also behaved arrogantly with him. Complainant Tarabai alleges that she was standing near the door and at that time, the Petitioner abused her, rushed towards her and pushed her. He behaved in such a way as would shame the complainant. It is in these circumstances, she states that the Petitioner and his friend Prakash Bohra misbehaved and abused the police officials and the Petitioner committed the aforesaid acts.

20) It is on this statement that the FIR was registered.

21) By prayer clause (b) of this Writ Petition (Cri.) No.5090 of 2014, the Petitioner prays that another FIR No. 381 of 2014 be quashed. As far as that FIR is concerned, it alleges

offence punishable under sections 188, 500, 501, 502, 66A and B of the Information Technology Act, 2000 and section 23(1)(2)(3)(4) of the Protection of Children from Sexual Offences Act, 2012. As far as that FIR is concerned, it *inter alia* alleges that the Petitioner misbehaved with complainant Sunil Darekar. Apart from the allegations of abusing a police official and misbehaving with him and talking to him in a threatening and intimidating tone, this FIR alleges that by disclosing the name of the victim to the local television channel, the Petitioner has committed breach and violation of the guidelines and directives of the Hon'ble Supreme Court of India. It is alleged that in sexual crimes and when they are being investigated, the reporters must show circumspection and sensitivity. They should be careful and cautious and not disclose the name of the victim on such media, else the victim's life will be under threat and the victim will not be able to depose freely and fearlessly before the police and the Court. This caution administered by the Hon'ble Supreme Court of India has been thrown to the wind by the Petitioner by his irresponsible and insensitive acts. That is why amongst others he is guilty of the offences under the above sections of IPC and the Information Technology Act, 2000.

22) As far as these two FIR's are concerned, in the memo of Writ Petition (Cri.) No. 5090 of 2014, the Petitioner has raised several grounds. The Petitioner states that the complaint of Tarabai discloses no offences absolutely. Far from being insensitive and unsympathetic, the Petitioner and his friend showed their concern and tried to assist and help the victim and her family in registering the crime. The victim is the granddaughter of a maid servant working at the Petitioner's friend's house. Due to the telephonic call of the Petitioner's friend and purely to assist a poor victim coming from the downtrodden section of the society, the Petitioner and his friend went to Kharghar Police Station. They had no intention of picking up a quarrel or abusing any police official on duty. They were stating and emphasising that the police officials and particularly males could not record the statement of the victim nor take down the contents of the FIR. The offence registered against the accused bus driver in the crime registered at the instance of complainant Tarabai and her daughter-in-law Sapna is punishable under section 376 of IPC. The offence of rape and the allegations therein are extremely serious. The victim is a minor. In these circumstances, the Petitioner, coming from a well educated family background, will not push the victim's grandmother nor will he misbehave with her so as to outrage her modesty. The Petitioner

is an Advocate. He has been falsely implicated because the police are trying to frame him in false cases. By several Public Interest Litigations and cases taken up on behalf of members of public, the Petitioner had on numerous occasions, invited the wrath and anger of police officials, particularly of Kharghar Police Station. Whenever their misdeeds and illegal acts were exposed by the Petitioner, these police officials ganged up against him. They were framing him in false cases only to teach him a lesson. In these circumstances, the Petitioner prays that the complaint FIR No. 346 of 2014 discloses no offence much less punishable under sections 353 and 354 of the IPC. It is impossible that in the presence of several persons including police officials and that too in a police station, the Petitioner will misbehave with a lady. The Petitioner has a family. He, his son and wife are well educated and established in life. The Petitioner, therefore, would not dare to commit any such act.

23) The Petitioner has produced before us a copy of an application and a statement of Tarabai Wankhede, wherein, she has completely supported the Petitioner. The Petitioner is stated to have not uttered a word, much less alleging that the Petitioner pushed her. In fact, it is stated that the Petitioner was trying to help her by impressing upon the police officials to record her

complaint and statement expeditiously. Thus, in the grounds in this Petition, apart from placing his version, the Petitioner has alleged that the Respondents have falsely involved him in a serious crime only to malign him and tarnish his reputation in the Society. He would submit that Tarabai is not a public servant and therefore, in a complaint based on her statement, section 353 could not have been invoked. The Petitioner would then submit that even if all the allegations are taken at their face value and as it is, they do not disclose commission of any offence by the Petitioner. The Petitioner has emphasised the impossibility of an act, much less of the nature alleged by Tarabai in a police station. He has stated that in the presence of about 50 police personnel, nobody would dare to touch a woman or misbehave and threaten her. It is in these circumstances that he would submit that none of the ingredients of section 354, 504 and 506 of IPC are attracted. The complaint read as whole does not disclose commission of any offence.

24) As far as FIR No. 381 of 2014 is concerned, the Petitioner appearing in-person was at pains to point out that none of the ingredients of the sections of the IPC and Information Technology Act, 2000 are attracted. It was submitted by him that sections 188 and 501, 502 of IPC can be invoked provided there is

disobedience to order duly promulgated by a public servant. If that order and promulgated by a public servant lawfully empowered to promulgate such order, directs abstaining from a certain act or to take certain order with certain property in his possession or under his management, disobeys such direction, then, that person knowingly committing this act is guilty of the offence punishable under section 188 of the IPC. The statement of Sunil Darekar does not disclose that any order has been promulgated by any public servant lawfully empowered to do so. Any order or direction of the Hon'ble Supreme Court of India would not come within the purview of this provision, inasmuch as those are guidelines which are issued from time to time by the Hon'ble Supreme Court of India. Those are contained in some judicial orders of the Hon'ble Supreme Court of India. The submission of the Petitioner is that based on certain orders and directions of the Hon'ble Supreme Court of India, even police officials ought not commit certain acts or conduct themselves as would embarrass victims of sexual crimes but they are brazenly and openly flouted. Hence, it is not open to them to complaint much less involve a innocent citizen falsely in crimes. Based on the judgments, no public servant has promulgated a lawful order so as to prevent people or to abstain or directing them from committing a certain act. Therefore, there is no question of this

provision being attracted. Secondly, section 501 and 502 of IPC cannot come to the aid and assistance of any police official. They deal with printing or engraving matter known to be defamatory or sale of printed or engraved substance containing defamatory matter. Thus, this is an act coming under the purview of defamation, for which punishment is prescribed. None of the family members of the victim or anybody on her behalf has alleged that the Petitioner printed or engraved any matter knowing to be defamatory or sold any printed or engraved substance containing defamatory matters. In the circumstances, the FIR could not have been registered. This clearly shows to what extent police officials go to harass innocent citizens like the Petitioner. They are involved in false cases simply to deter them from assisting and helping victims of crime or those who do not have the capacity and ability to approach police station and register a crime. Such sufferers and on whom injustice is inflicted are being regularly assisted by the Petitioner and to prevent him, such a false case has been registered. That is why he would submit that these allegations taken at their face value do not disclose commission of any offence.

25) The Petitioner being a party in person, though stated to be a practicing Advocate having canvased such submissions,

we have considered them very carefully. We have given a very patient hearing to the Petitioner so that he does not return dissatisfied from the Court. He should not entertain an impression that the Courts do not wish to consider the rival version when offences alleged to be punishable under section 354 and 353 of IPC are committed. That is why the entire material, including the case law have been perused by us. Thus, a compilation of written notes and case laws has been perused by us. The Petitioner has relied upon the following judgments in support of the above contentions:-

(i) Mrs. Priyanka Srivastava vs.State of U. P., App. 781 of 2012.

(ii) Laxmidhar Das and Ors. vs. State of Orissa and Anr., (2004) 28 OCR 374

(iii) Kamlesh Pathak and Ors. vs. State of Madhya Pradesh, 2005 MPHT 426..

(iv) Central Bureau of Investigation vs. State of Rajasthan, LAWS (SC) 2001-1-15.

(v) R. S. Gowri Sankar vs. State, Laws (MAD) 2003.

(vi) Rajjan Prasad vs. State of U. P., ACC – 2009-64.

(vii) Navab Rajendra vs. State of Kerala, LAWS(MAD) 1994.

(viii) Vennapusa Gangireddy vs. State of Andhra Pradesh, 2007 Cri. L. J. 3230.

(ix) Perumal vs. Janaki, (2014) 5 SCC 377.

(x) K. V. Rajendram vs. Inspector of Police, LAWS (MAD) 2001-3-44.

(xi) Smt. Mohini Kamwani vs. Sr. Police Inspector, WP/1857/2012 (Bombay High Court).

(xii) Gulbrao Kadave vs. State of Maharashtra, 2011 All MR (Cri.) 3248.

(xiii) Satish Vasant Salvi vs. The State of Maharashtra, WP/725/2014. (Bombay High Court)

(xiv) Dattatraya Mhadu Tikkal vs. State of Maharashtra, 2014 All MR (Cri.) 31.

(xv) State Mazdoor Chetna Sangth vs. State of Madhya Pradesh, (1994) SCC 260.

(xvi) The State of Maharashtra vs. Sagar Balu Ubhe, Criminal Application (L) No. 399 of 2013 (Bombay High Court).

(xvii) Niraj Ramesh Jariwala and Ors. vs. Mahadeo Pandurang Nikam and Ors., Criminal Writ Petition No. 856 of 2012 (Bombay High Court).

(xviii) Sharad vs. State of Maharashtra and Ors., LAWS (BOM) – 2015-3-228.

26) On the other hand, the complainant and Ms.Sonawane, learned APP submitted that there is no substance in each of these Petitions. They deserve to be dismissed. Firstly and on the point of complaint alleging offences punishable under the SCST Act, it was urged by the complainant that there is an affidavit filed in reply, which explains as to how the three FIR's have been registered. In that, both Counsel placed reliance upon the affidavit of Mr. Dilip Ramchandra Gore, Assistant Commissioner of Police, presently attached to Thane City, Thane, but at the relevant time associated with Navi Mumbai Police

Commissionerate, of which Kharghar Police Station is a part. He stated that it comes under Panvel Division. It is stated in this affidavit that the primary offence committed was one registered at the instance of Sapna Wankhede on 23rd November, 2014 being FIR No. 345 of 2014 alleging offence punishable under section 376 of the IPC read with sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012. It is submitted that in this, the Petitioner is neither the accused nor the complainant. However, he barged into Kharghar Police Station and thereafter he was trying to pressurise and threaten the police officials. In the garb of assisting the victim and her family, he himself misbehaved not only with the police officials but abused complainant Tarabai and tried to push her. All this would attract the ingredients of section 354 of IPC. Trying to video shoot or photograph the proceedings at the police station in the garb of assisting the victim and her family, the Petitioner was trying to exert influence. He was interfering with the work of public servants. He not only indulged in these acts but committed further acts and as would shame and insult complainant Tarabai. That is how a *prima facie* case has been made out and insofar as FIR No. 346 of 2014 is concerned, that should not be quashed and set aside. The learned APP has supported the registration of FIR NO. 381 of 2014 by relying on the affidavit in reply of the State.

27) As far the complaint of Mr. Darekar is concerned, it was submitted by the Counsel that Darekar was on official duty. Darekar is a public servant. Apart from being a police officer, Darekar has stated in his statement that he belongs to Mahadev Koli Scheduled Tribe. As far as Darekar's allegations are concerned, reliance is placed on his statement to urge that he was insulted and abused in the name of his caste/tribe and that is how the ingredients of the offences punishable under the SCST Act are attracted and satisfied. There is nothing illegal and erroneous if the learned Judicial Magistrate, First Class has directed investigation under section 156(3) of Cr. P. C. for, none of the provisions of the SCST Act prohibit the learned Judicial Magistrate, First Class from doing so. He is fully empowered to take cognizance even of a complaint alleging offences punishable under the SCST Act and order investigation and after conclusion of the investigation the report is placed before him, which makes out a case for proceeding against those named therein for offences punishable under the SCST Act, then, the further steps in accordance with law can follow. If at the threshold the learned Judicial Magistrate, First Class has taken a note of the allegations and acted as above, he has committed no illegality, much less any error of jurisdiction. Therefore, his order does not deserve to be quashed and set aside. Writ Petition (Cri.) No. 1680 of 2015 be

therefore dismissed.

28) With the assistance of learned Advocates appearing for parties, we have perused both the Writ Petitions, their Annexures very carefully. We have considered the rival contentions meticulously and carefully. We have also gone through the entire case laws relied upon by parties.

29) we would take up the case where the public servant, namely, police officer Mr. Darekar has alleged that the Petitioner has committed offences punishable under both, the IPC and the SCST Act. As far as the offences punishable under the IPC are concerned, Mr. Darekar has, in his statement, alleged that there is an obstruction and interference by which a public servant was deterred from discharging his duty. It is alleged that as far as the assault is concerned, under section 351 of IPC, whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault. There are several

illustrations and as far as criminal assault is concerned, by section 349 that is defined.

30) We do not wish to go into these aspects any further, simply because the parties have not addressed us on the ingredients of these provisions and with reference to the allegations regarding the same in details. We are at a prima facie stage. We do not therefore have to deal with the merits of the allegations. Whether these are proved or not will be determined only at the trial. Should we quash the FIR is in our extraordinary, equitable and discretionary inherent jurisdiction is the question.

31) The Petitioner has concentrated on the application of the SCST Act. Even with regard thereto, he has not addressed us at length, but has placed his version about the truthfulness of the statement of the complainant. In other words, the contents of this statement are termed as false. He urged that the complainant is making a false statement and has not approached the Court of learned Judicial Magistrate, First Class with clean hands. He had malicious intention and wanted to frame the Petitioner in a criminal case. The complainant is an investigating officer and in-charge of investigation in FIR No. 345 of 2014. It is with regard to the progress of the investigation therein that genuine and bonafide inquiries were made by the Petitioner. The

Petitioner was trying to assist the victim and her family. It is enraged and upset by the Petitioner's intervention that the police officials have framed him in this case. As far as this aspect is concerned, we do not wish to express any opinion. Suffice it to note that on a careful perusal of the statement of Mr. Sunil Darekar, we are satisfied that a *prima facie* case has been made out. It may be that all sections invoked and applied may not be eventually attracted. The case may not proceed in the sense, the charge may not be framed insofar as all these sections are concerned. However, as far as the allegations in the complaint are concerned, we are of the opinion that the investigations are under way. The version of the complainant was before the Court. The Criminal Court has performed its duty by carefully perusing the complaint. It has heard the complainant, who is a police officer attached to Kharghar Police Station. Being an investigating officer and investigating a sensitive crime, the police official stated before the Court that he stands by and supports the version as recorded in the FIR. That the Petitioner was trying to obstruct him while he was discharging and performing his lawful duty. The Petitioner was intimidating and threatening in his tone and approach. The Petitioner went a step further and abused and insulted the complainant in the name of his tribe. The complainant records that the Petitioner stated that

only because the complainant belongs to Scheduled Tribe (Mahadev Koli) that he is lucky to be appointed as a police officer. Else, he has nothing to his credit. *Prima facie*, such an allegation would indicate as to how the SCST Act gets attracted. It is an Act to prevent commission of offence of atrocities against members of the Scheduled Caste and Scheduled Tribe, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto. Untouchability has been abolished by Article 17 of the Constitution of India. Though it is abolished, it continues to be practiced in several forms. It extends itself in the acts and deeds of those who do not belong to the Schedule Caste and Schedule Tribe. Such persons and groups do not like the members of Scheduled Caste and Scheduled Tribe being elevated, rehabilitated and conferred with dignity and status. Rather than appreciating and upholding the measures and assisting these persons, the higher castes and groups amongst them continue to hold a grudge and are jealous because of the progress and rapid strides made by the downtrodden and those belonging to lower strata of the society. It is therefore a matter of shame that after four decades of independence and nearly 38 years of the Constitution being brought in force that a law to prevent atrocities on the Scheduled Castes and Scheduled

Tribes had to be enacted. The offences of atrocity had to be defined so as to make it a punishable Act. Whoever not being a member of a Scheduled Caste or a Scheduled Tribe commits the acts set out in clauses (i) to (xv) of sub-section (1) of section 3 of the SCST Act is said to commit an offence of atrocity punishable with imprisonment and with fine.

32) In the present case, the statement of the said Darekar projects an act which is an atrocity and punishable as an offence within the meaning of section 3(1)(x), which states that whoever not being a member belonging to the Scheduled Caste and Scheduled Tribe intentionally insults or intimidates with intent to humiliate a member of a scheduled Caste or a Scheduled Tribe in any place within public view is said to commit this offence and be punished for it. After perusing the entire complaint, the statement of the complainant police official and the order of the learned Judicial Magistrate, First Class, we are of the opinion that the learned Magistrate has merely performed his duty of making over a complaint to the police for investigation as the offences alleged are serious. He has found that *prima facie* case for directing investigation under section 156(3) of the Cr. P. C. has been made out and for that purpose, the learned Judicial Magistrate, First Class satisfied himself by perusing the

complaint and hearing the complainant. The Magistrate was not required to pass an elaborate and detailed order at this *prima facie* stage. Suffice it to note that his direction to carry out investigation under section 156(3) of Cr. P. C. is not illegal or perverse.

33) The order dated 7th March, 2015 is challenged on the ground that the learned Judicial Magistrate, First Class had no power, authority and jurisdiction to pass the impugned order.

34) Our attention has been invited to the complaint, the statement of Mr. Darekar and the provisions of the SCST Act.

35) We have, with the assistance of the learned Counsel, perused this provision. The preamble to the Act has been already summarised by us above. It has been referred in detail in order to highlight the necessity of introduction of the Act. The statement of objects and reasons referred to vulnerability of this section of the society because of denial of civil rights to them, subjecting them to various offences, indignities, humiliations and harassment, several brutal incidents resulting in deprivation of their life and property. Serious crimes are committed against them for various historical, social and economic reasons. That is how the Act was enacted and it extends to the whole of India

except Jammu and Kashmir. The six clauses in section 2 titled as 'Definitions' are relevant and read as under:-

> "(a) "atrocity" means an offence punishable under section 3;
>
> (b) "Code" means the Code of Criminal Procedure, 1973) (2 of 1974);
>
> (c) "Scheduled Caste and Scheduled Tribes" shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution;
>
> (d) "Special Court" means a Court of Session specified as a Special Court in section 14;
>
> (e) "Special Public Prosecutor" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;
>
> (f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code (45 of 1860) shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code."

36) Chapter II is titled as "Offences of Atrocities". In that section 3 sets out punishments for offences of atrocities. Section 4 makes even a public servant but not being a member of a Scheduled Caste or a Schedule Tribe guilty of an offence punishable with imprisonment for a term which shall not be less than six months but which may extend to one year if he willfully neglects his duties required to be performed by him under this Act. Section 5 provides enhanced punishment for subsequent conviction. By section 6, certain provisions of IPC have been applied so far as they may be applicable for the purpose of the SCST Act. By section 7, forfeiture of property of certain persons

is provided for. By section 8, there is a presumption as to offences. By section 9, which is titled as “Conferment of Powers”, it is provided that notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do, for the prevention of and for coping with any offence under this Act, or for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the official gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court. By sub-sections (2) and (3), it is clarified that all officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder and the provisions of the Cr. P. C., so far as may be applied to the exercise of the powers by an officer under sub-section (1). By Chapter III, externment is provided for and that is a power which can be exercised by the Special Court. Chapter IV is titled as “Special Courts”. Therein, a Special Court shall be set up for a district and it is a Court of Session to try the offences under the Act. By Chapter V, which is

titled as “Miscellaneous”, there are several provisions which makes the Act effective and purposeful. The Act envisages imposition and realisation of collective fine, preventive action and makes section 438 of the Code inapplicable. Equally, section 360 of the Code is also inapplicable. The benefit of the provisions of the Probation of Offenders Act, 1958 will not apply to persons guilty of offence under the Act. The Act has been given overriding effect and by section 23, the Central Government can make Rules.

37) We have not seen any provision in the Act and the Rules, which would disable the Magisrate from ordering investigation under section 156(3) of Cr. P. C. or taking cognizance of the offences. In fact, the SCST Act does not rule out applicability of the Cr. P. C. It is applicable. The Special Court set up and established under the Act in each district is a Court of Session (See section 14). These words are to be found in the Cr. P. C. (see section 9 of Cr. P. C.) In the case of *Gangula Ashok and Anr. vs. State of Andhra Pradesh* reported in **AIR 2000 SC 740** the Hon'ble Supreme Court of India was considering an identical controversy. The question was, can a Special Court which is envisaged in the SCST Act take cognizance of any offence without the case being committed to that Court. After referring to the factual position, the Hon'ble Supreme Court, from paras 6 to 16,

held as under:-

> "6. We have to consider whether the Special Judge could take cognizance of the offence straightway without the case being committed to him. If the Special Court is a Court of Session the interdict contained in Section 193 of the Code of Criminal Procedure (for short 'the Code') would stand in the way. It reads thus:
>
> > "193. Cognizance of offences by Courts of Session. - Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code."
>
> 7. So the first aspect to be considered is whether the Special Court is a Court of Session. Chapter II of the Code deals with "Constitution of Criminal Courts and Offices". Section 6, which falls thereunder says that "there shall be, in every State, the following classes of Criminal Courts, namely:- (i) Courts of Session
> (The other classes of criminal Courts enumerated thereunder are not relevant in this case and hence omitted.)
>
> 8. Section 14 of the Act says that "for the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act". So it is for trial of the offences under the Act that a particular Court of Session in each district is sought to be specified as a Special Court. Though the word "trial" is not defined either in the Code or in the Act it is dearly distinguishable from inquiry. The word "inquiry" is defined in Section 2(g) of the Code as "every inquiry, other than trial, conducted under this Code by a magistrate or court". So the trial is distinct from inquiry and inquiry must always be a forerunner to the trial. The Act contemplates only the trial to be conducted by the Special Court. The added reason for specifying a Court of Session as special Court is to ensure speed for such trial. "Special Court" is defined in the Act as "a Court of Session specified as a Special Court in Section 14", [vide S.2(l)(d)]
>
> 9. Thus the Court of Session is specified to conduct a trial and no other court can conduct the trial of offences

under the Act. Why the Parliament provided that only a Court of session can be specified as a Special Court? Evidently the legislature wanted the Special Court to be Court of Session. Hence the particular Court of Session, even after being specified as a Special Court, would continue to be essentially a Court of Session and designation of it as a Special Court would not denude it of its character or even powers as a Court of Session. The trial in such a court can be conducted only in the manner provided in Chapter XVIII of the Code which contains a fasciculus of provisions for "Trial before a Court of Session".

10. Section 193 of the Code has to be understood in the aforesaid backdrop. The section imposes an interdict on all Courts of Session against taking cognizance of any offence as a court of original jurisdiction. It can take cognizance only if "the case has been committed to it by a magistrate", as provided in the Code. Two segments have been indicated in Section 193 as exceptions to the aforesaid interdict. One is, when the Code itself has provided differently in express language regarding taking of cognizance, and the second is when any other law has provided differently in express language regarding taking cognizance of offences under such law. The word "expressly" which is employed in Section 193 denoting to those exceptions is indicative of the legislative mandate that a Court of Session can depart from the interdict contained in the section only if it is provided differently in clear and unambiguous terms. In other words, unless it is positively and specifically provided differently no Court of Session can take cognizance of any offence directly, without the case being committed to it by a magistrate.

11. Neither in the Code nor in the Act there is any provision whatsoever, not even by implication, that the specified Court of Session (Special Court) can take cognizance of the offence under the Act as a court of original jurisdiction without the case being committed to it by a magistrate. If that be so, there is no reason to think that the charge-sheet or a complaint can straightway be filed before such Special Court for offences under the Act. It can be discerned from the hierarchical settings of criminal courts that the Court of Session is given a superior and special status. Hence we think that the legislature would have thoughtfully relieved the Court of Session from the work of performing all the preliminary formalities which magistrates have to do until the case is committed to the Court of session.

12. We have noticed from some of the decisions rendered by various High Courts that contentions were advanced based on Sections 4 and 5 of the Code as suggesting that a departure from Section 193 of the Code is permissible under special enactments. Section 4 of the Code contains two sub-sections of which the first sub-section is of no relevance since it deals only with offences under the Indian Penal Code. However, sub-section (2) deals with offences under other laws and hence the same can be looked into. Sub- section (2) of Section 4 is extracted below:

> "All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."

13. A reading of the sub-section makes it clear that subject to the provisions in other enactments all offences under other laws shall also be investigated, inquired into, tried and otherwise dealt with under the provision of the Code. This means that if other enactment contains any provision which is contrary to the provisions of the Code, such other functions would apply in place of the particular provision of the Code, If there is no such contrary provision in other laws, then provisions of the code would apply to the matters covered thereby. This aspect has been emphasised by a Constitution Bench of this Court in paragraph 16 of the decision in A.R. Antulay v. Ramdas Sriniwas Nayak and Anr., [1984] 2 SCC 500. It reads thus :

> "Section 4(2) provides for offences under other law which may be investigated, inquired into, tried and otherwise dealt with according to the provisions of the Code of Criminal Procedure but subject to any enactment for the time being in force regulating the manner or place of investigation, inquiring into, trying or otherwise dealing with such offences. In the absence of a specific provision made in the statute indicating that offences will have to be investigated, inquired into, tried and otherwise dealt with according to that statute, the same will have to be investigated, inquired into, tried and otherwise dealt with according to the Code of Criminal Procedure. In other words, Code of Criminal Procedure is the parent statute which provides for investigation, inquiring

> into and trial of cases by criminal courts of various designations."
>
> 14. Nor can Section 5 of the Code be brought in aid for supporting the view that the Court of Session specified under the Act can obviate the interdict contained in Section 193 of the Code as long as there is no provision in the Act empowering the Special Court to take cognizance of the offence as a court of original jurisdiction. Section 5 of the Code reads thus :
>
> "5. Saving. - Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force."
>
> 15. This Court, on a reading of Section 5 in juxtaposition with Section 4(2) of the Code, has held that "it only relates to the extent of application of the Code in the matter of territorial and other jurisdiction but does not nullify the effect of Section 4(2); In short, the provisions of this Code would be applicable to the extent, in the absence of any contrary provision in the special Act or any special provision including the jurisdiction or applicability of the Code." (vide para 128 in Directorate of Enforcement v. Deepak Mahajon, [1994] 3 SCC 440.
>
> 16. Hence we have no doubt that a Special Court under this Act is essentially a Court of Session and it can take cognizance of the offence when the case is committed to it by the magistrate in accordance with the provisions of the Code. In other words, a complaint or a charge sheet cannot straightway be laid before the Special Court under the Act."

38) It thus referred the view of several High Courts in India and found that the Division Bench of the Andhra Pradesh has stated the legal position correctly.

39) Mr. Gangwani, the party in-person before us was unable to point out anything contrary to this position in law. Rather, we have found that this Judgment has been relied upon in

several subsequent decisions of the Hon'ble Supreme Court of India. In that, reference can usefully be made to the judgment in the case of *Rattiram vs. State of Madhya Pradesh* reported in **(2013) 4 SCC 543**. Finally, we found that in the case of *Vidyadharan vs. State of Kerala* reported in **AIR 2004 SC 536** and even in *Rattiram's* case (supra), this legal position is not diluted.

40) Having regard to the above settled legal position and the principles laid down in these decisions of the Hon'ble Supreme Court of India, we are of the view that the order dated 7th March, 2015 does not suffer from any error of law apparent on the face of the record. It cannot be held that the learned Judicial Magistrate, First Class has assumed jurisdiction which is not vested in him by law. The legal position as summarised above would denote as to how the learned Judicial Magistrate, First Class was not denuded of his original jurisdiction and power. After investigation and report, if the relevant provisions of the SCST Act are found to be attracted and there is material in that behalf, then, the learned Magistrate is not precluded or prevented from passing an order within the meaning of section 209 of the Cr. P. C.. In other words, if it appears to the Magistrate that the offence is triable exclusively by the Special Court, then, he can pass an order of

committal within the meaning of this provision. Till then and in terms of section 193 of the Cr. P. C., the Magistrate could have exercised the requisite powers and within the meaning of Chapter XIV of the Cr. P. C. The Writ Petition No. 1680 of 2015 must therefore fail.

41) The case law relied upon by the Petitioner would be of no assistance, inasmuch as the view taken by the learned Single Judge of the High Court of Orissa in the case of *Laxmidhar Das and Ors. vs. State of Orissa and Anr.* **(2004) 28 OCR 374** will have no application in the facts and circumstances of the case. There, firstly, the attention of the learned Single Judge was not invited to the judgment of the Hon'ble Supreme Court of India in the case of *Gangula Ashok* (supra). However, our attention has been invited to the judgment of the Hon'ble Supreme Court of India in the case of *Rosy and Anr. vs. State of Kerala and Ors.* reported in **AIR 2000 SC 637**. In that case, the Hon'ble Supreme Court was concerned with the Magistrate not following section 202 of Cr. P. C. We do not see how non-compliance with proviso to sub-section (2) of section 202 of the Cr.P. C. and when it does not vitiate the trial unless prejudice caused to accused is established can have application to the facts and circumstances of the present case.

42) Similarly, the judgment of the Madhya Pradesh High Court in the case of *Kamlesh Pathak and Ors. vs. State of Madhya Pradesh* reported in **2005 (3) MPHT 426**, the argument was of lack of power to issue direction under section 156(3) of the Cr.P.C., regarding offences triable exclusively by the Sessions Court. We do not see how in the teeth of the authoritative pronouncement of the Hon'ble Supreme Court of India can any of these judgments be held to be applicable.

43) We, therefore, do not wish to burden our judgment by making reference to each and every decision cited before us. They are on the same principles. As far as other judgments cited are concerned, they would touch the merits of the case and when an offence could be said to be committed within the meaning of the SCST Act and particularly the offence of atrocity punishable under section 3(1)(x). The Petitioner is free to rely upon these judgments at an appropriate stage before the competent Court.

44) As far as Writ Petition (Cri.) No. 5090 of 2014 is concerned, we have carefully perused the statement of the complainant in FIR No. 346 of 2014. Upon perusal of the statement of complainant Tarabai, copy of which is at page 48 of the paper book, we are of the view that the ingredients of offence punishable under section 354 of the IPC are made out. It may be

that the said Tarabai is now attempting to change her version, but the dichotomy or contradiction in the two statements, one made by her on 23rd November, 2014 and the subsequent one can be pointed out by the Petitioner at an appropriate stage before the competent Court. For the time being and at this *prima facie* stage, we cannot agree with the Petitioner appearing in-person. Section 353 has already been referred by us. As far as section 354 is concerned, the ingredients thereof are referred by the Petitioner to urge that from the statement of Tarabai, there is no assault or use of criminal force intending to outrage or knowing it to be likely that the accused thereby outraged the woman's modesty. We have found from the statement of Tarabai that she has alleged that firstly, the Petitioner was trying to photograph the events at the police station. Secondly, when the police officials tried to prevent him from doing so, he was very abusive and did not stop the process of taking photographs from his mobile phone. Thirdly, she was standing at a corner and when she tried to tell the Petitioner that the police officials are rendering necessary assistance to her family and the victim, he pushed her, abused her and inappropriately touched her. It is in these circumstances that we find that the allegations made and taken as a whole make out a *prima facie* case for an offence punishable under section 354 of the IPC. From the definitions of the two words “assault”

and "criminal force", it is apparent that the same have been referred in section 354 of the IPC with a view to emphasise that such acts and qua any woman intending to outrage or knowing it to be likely that the person proceeded against will thereby outrage her modesty have been brought within the purview of this provision. As to whether the version of complainant Tarabai is true or false or that she has made such a statement at the instance of anybody is a matter of trial. We cannot, at this stage, reject her version straightaway by attributing any malafides to her. In such circumstances, we do not find that this FIR deserves to be quashed. We are of the opinion that the FIR read as a whole makes out a *prima facie* case of commission of offence punishable under sections 353 and 354 of the IPC. Ultimately, what would be the appropriate charge will depend upon the materials collected and brought before the competent Court. We cannot, at this stage, proceed to quash the FIR only on the version of the Petitioner. That would be not fair, just and proper. None of the tests and as laid down in the decision of the Hon'ble Supreme Court of India in the case of *State of Haryana vs. Bhajan Lal and Ors.* reported in **AIR 1992 SC 604** are satisfied.

45) We have carefully perused the statement of the complainant in FIR No. 381 of 2014. We do not think that there is

any substance in the submissions of Ms. Sonawane, learned APP. We have, with her assistance, perused the relevant sections of the IPC. We have also perused the statement complainant Mr.Darekar and which we have referred in extenso. We are in agreement with the Petitioner that the ingredients of offences punishable under sections 188, 501 and 502 of the IPC are not prima facie made out. There is nothing by which we can infer that the statement and attributable to a police officer can be brought within the purview of section 188 of the IPC. There is no order lawfully promulgated by a public servant and which directs abstaining certain act to be done within the meaning of that provision. By mere reference to some observations of the Hon'ble Supreme Court and the guidelines laid down therein we cannot assume that the same would partake a character of an order within the meaning of section 188 of the IPC. We have also found from sections 501 and 502 that the acts attributable therein in the context of the offence of defamation are even made out. Thus, FIR No. 381 of 2014 does not even make out a *prima facie* case of commission of any offence and particularly referred in the statement of police inspector Darekar, the complainant therein. Hence, from the complaint itself, it is apparent that no *prima facie* case of any offence is disclosed. FIR No. 381 of 2014 therefore deserves to be quashed.

46) As a result of the above discussion, we pass the following order:-

(i) Rule in Criminal Writ Petition No. 1680 of 2015 is discharged. That Petition stands dismissed. We do not pass any orders in regard to the claim for compensation which has been claimed by the Petitioner, for, we do not find any materials in relation thereto brought on record. The Petitioner is free to resort to such remedies as are provided in law.

(ii) Rule in Criminal Writ Petition No. 5090 of 2014 is made partly absolute. The prayer to the extent of quashing of FIR No. 346 of 2014 registered at Kharghar Police Station is refused and the relief in that behalf is rejected. However, Rule is made absolute in terms of prayer clause (b). The FIR No. 381 of 2014 registered at Kharghar Police Station alleging offences punishable under sections 188, 500, 501, 502 of Indian Penal Code, sections 66A and 66B of the Information Technology Act, 2000 and sections 23(1)(2)(3)(4) of the Protection of Children from Sexual Offences Act, 2012 is quashed.

(B.P.COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**