

Crime No.350/2021 in Spl. MCOCA Case no.921/2021.

Mrs. Rohini Raviraj Taware (Lakhe) ... Complainant  
Vs.  
Jaydeep Dilip Taware .... Accused no.6

Order below Exh. 32

This is successive protest petition filed by the Complainant against the report u/s. 169 of Cr. P. C. filed by the I.O. against accused nos.6 for an offence punishable u/s. 307, 120-B, 504, 506 of IPC, u/s. 3 (25) (27), 4 (25) of Arms Act. Subsequently, the concerned authority accorded sanction for invocation of provisions of MCOC Act.

2] Before going into the details of the protest petition, the facts arising out of the FIR be summarized as under :

That on 31.05.2021 at about 645 p.m., Complainant and her husband (injured) went to receive the vada-pav parcel at the house of Saad Shaikh on Sambhajinagar, Zailsingh Road by their car bearing registration no.MH-12KE-1800. Her husband alighted from the car and went to receive the vada-pav parcel. At that time, accused namely Prashant Popatrao More, Vinod @ Tom Popatrao More and one unknown person fired bullet on the person of her husband namely Raviraj Taware with intention to kill him and create terror in the locality. Thereafter, they fled away from the spot of incident. It is also contended that, due to political rivalry, to avoid monetary loss in government construction works and to create

terror in locality, the accused persons engaging into criminal conspiracy tried to kill her husband. Accordingly, on the complaint of Complainant CR no.350/2021 came to be registered against four persons at Baramati police station on 01.06.2021 for the offences punishable u/s. 307, 120-B, 504, 506 of IPC, u/s. 3 (25) (27), 4 (25) of Arms Act.

3] During the course of investigation, concerned police found that the accused are running a syndicate and the relevant provisions of MCOCA is attracted, therefore, on 09.06.2021 proposal for invocation of section 3 (1) (ii), 3 (4) of MCOC Act. The concerned authority accorded sanction for invocation of MCOCA on 12.06.2021. Accordingly, the station diary entry was made on 14.06.2021 at Baramati Taluka Police Station, Pune Rural. On 06.07.2021 accused no.6 Jaydeep was arrested. The investigating officer in remand report mentioned the involvement of accused no.6 mainly u/s. 307, 120-B of IPC. It is also mentioned that on account of work tenders, accused no.6 has grudge against the injured Raviraj Taware. Accused no.6 remanded to police custody for 8 days and subsequently on 14.07.2021 accused no.6 sent in MCR. On 21.07.2021, the I.O. filed report u/s. 169 of Cr. P. C. praying for release of aforesaid accused no.6. Thereafter, the court issued notice to original Complainant to file her say on aforesaid report u/s. 169 of Cr. P. C. Then, the advocate for Complainant filed this protest petition. After hearing both sides at length, this court allowed the protest petition by order dated 16/08/2021.

4] The main contention of the Complainant in the present

petition is that, the Investigating officer is seen to be bias and has carried out one sided investigation favouring accused no.6. The accused no.6 is moneyed, very powerful and politically strong person in the vicinity. The statement of injured came to be recorded on 19.06.2021 wherein, he narrated the incident as well as details of motive on the part of other accused including accused no.6. The statement of injured is self explanatory pointing fingers towards the guilt of accused no.6 for conspiring to attempt to commit the murder of injured.

5] It is strenuously urged that, the investigating agency is trying to mislead by stating that, the mobile location of the injured and accused no.6 is mis-matched. It is deliberately suppresses to disclose the tower location, CDR of accused no.6 with that of rest of the co-accused. There are CDR and monetary transactions between accused no.6 and other conspirator, is yet to be investigated. After rejection of earlier protest petition on 16/08/2021, the investigating agency kept this accused out side the custody and taken in custody only when charge-sheet against the other co-accused was to be filed. The statement of witnesses shows that, accused no.6 and injured were on enemical terms, therefore, there is strong evidence and motive against accused no. 6. Therefore, there is every reason to believe that the accused no.6 has conspired with other co-accused persons and is also going to surface in further investigation. Thus, the investigation carried by the investigating machinery is clearly seen to be bias, suspicious.

6] It is further submitted that, the investigating officer

has ignored the investigation in respect of N.C. no.64/2021 dated 16/01/2021 and N.C. no.196/2021 dated 15/02/2021 filed by the injured against accused no.6 and others. This shows the strong motive against the accused no.6 to commit the offence of conspiracy.

7] The learned counsel for the Complainant further submitted that, the Complainant and injured has also requested to Superintendent of Police, Pune (Rural) so as to look into the investigation, however, he did not pay heed to their request. Ultimately, the Complainant and injured approached the Hon'ble High Court, Bombay and filed writ petition no. 3595/2021 thereby praying that, the investigation of the present crime may be transferred to the CID, CBI or any independent agency and to add Ravindra Aba Kale as accused in the present crime and direct for further investigation in accordance with law. The said writ petition is still pending.

8] It is further submitted that, the I.O. has not carried out any independent investigation as to investigate the bank statements of all the accused including the accused no.6 and Ravindra Kale in order to ascertain the pecuniary benefit gained by use of violence and insurgencies, though I.O. knew about the business and political rivalry of accused no.6, injured and Ravindra Kale.

9] The investigating officer filed his say at Exh. 37 and strongly opposed the protest petition filed by the Complainant. He contended that, the CDR analysis of accused no.6, statement

of co-accused recorded u/s. 18 of MCOCA and statement of witnesses recorded u/s. 164 (5) of Cr. P. C. suggests that, accused no.6 has no complicity, therefore, his involvement is not revealed in the present crime. It also contended that, he do not find any evidence against accused no.6 in connection with alleged crime of conspiracy and attempt to commit murder of injured. Hence, he prayed to reject the protest petition and allow the release report u/s. 169 of Cr. P. C.

10] The Investigating Officer in his submission submitted that, there is no any incriminating evidence found to him during his course of investigation that, applicant has played a role of conspirator in the alleged commission of crime. Across the Bar, he submitted that he filed his detailed reply which can be taken into consideration while deciding this protest petition.

11] The learned counsel for the accused no.6 Shri. Harshad Nimbalkar supported the submissions of Investigating Officer. In sum and substance, according to him, there is no iota of evidence against the accused no.6 as conspirator in the commission of alleged crime. The Investigating officer rightly come to the conclusion that the evidence against accused no.6 is deficient and accordingly prayed to release him u/s. 169 of Cr. P. C.

12] I have considered these submissions. I had gone to the entire investigating papers. It is a fact on record that, the accused no.6 being aggrieved and dis-satisfied by the order of this court and filed Cri. Writ Petition No. 3207/2021 before

Hon'ble Bombay High Court. However, the said criminal writ petition came to be dismissed and Hon'ble High Court, Bombay upheld the order of this court. Later on, the accused approached to Hon'ble Supreme Court and filed Special Leave Petition (Cri) no.8135/2021. However, it came to be dismissed by order dated 29/10/2021. Ultimately, the order passed by this court on protest petition is confirmed.

13] It is not disputed that, the Complainant – Rohini Taware lodged an FIR on 01/06/2021 about the alleged incident of firing upon her husband. She named about 3 persons and 1 unknown person in the FIR. The name of accused no.6 is not figured in the FIR. It is to be noted that, on 19/06/2021 the statement of injured – Raviraj Taware came to be recorded. In his statement, he narrated the political background of accused no.6, himself, his wife ( Complainant ) and details of previous enmity. It is not disputed that, prior to this incident there was two N.C complaints i.e. NC no.64/2021 dated 16/01/2021 and NC no.196/2021 dated 15/02/2021 lodged by the injured against accused no.6 and others. Those complaints established the strong motive against the accused no.6 to commit the offence of conspiracy. The Investigating Officer in his report contended that the mobile location of the injured and accused no.6 was mis-matched, therefore, involvement of accused no.6 is not revealed to him in the alleged crime.

14] It is to be noted that, the Investigating officer recorded the statement of Pramila Lokhande, (Gaon-Kamgar Talathi) on dated 13/07/2021 and one Shailesh Dandvate on

05/07/2021. In the statements of both these witnesses, there is reference of accused no.6 revealed about putting of the political pressure in their activities.

15] It is pertinent to note that, the IO has ignored the investigation of N.C. no.64/2021 dated 16/01/2021 and N.C. no.196/2021 dated 15/02/2021 filed by the injured against accused no.6 and others. Those offences clearly established a strong motive against accused no.6 to commit the offence of conspiracy. The provisions of MCOC Act clearly applied to accused no.6. He is member of organized crimes syndicate headed by co-accused no.1 Prashant More. The investigating officer ignored the detailed statement of injured implicating accused no.6 in the alleged crime. The videos loaded on social media, spreading threatening news in vicinity of village of injured itself goes to show the involvement of accused no.6 in the crimes syndicate.

16] Considering the statement of injured – Raviraj Taware, statements of Pramila Lokhande and Shailesh Dandvate and political influence of accused no.6, I find sufficient evidence on record against accused no.6 as a conspirator in the commission of alleged crime. The stand taken by investigating officer that, the CDR analysis of accused no.6, confessional statement of co-accused recorded u/s. 18 of MCOCA and statement of witnesses u/s. 164 (5) of Cr. P. C. does not show the complicity of the accused no.6 in the present crime is proved to be far from reality.

17] I do concede with the submissions of learned counsel for the Complainant about the complicity of accused no.6 to the hilt. In the light of foregoing discussions, I disagree with the submissions of investigating officer as to the innocence of the accused no.6. Thus, I found substance in the protest petition filed by Complainant. Hence, the following order.

**ORDER**

- 1] The Protest Petition (Exh.32) is allowed.
- 2] The report u/s. 169 of Cr. P. C. dated 02/12/2021 filed by Investigating Officer is hereby rejected.
- 3] The Investigating Officer is directed to conduct the detailed investigation in the line of statement of injured – Raviraj Taware and other witnesses as mentioned above, and submit the chargesheet against accused no.6.
- 4] In terms of above order, the application of accused no.6 to release him on bail, in view of report u/s. 169 of Cr. P. C. filed by I.O. is rejected.

Date: 09/12/2021

Sd/-xxx  
( G. P. Agrawal )  
Additional Sessions Judge,  
Pune.

**CERTIFICATE**

I affirm that the contents of this P.D.F file Order is same word for word as per original Order.

Name of Steno	‡ S. Y. Shaikh, (Stenographer Grade-I)
Court Name	‡ G.P. Agrawal Additional Sessions Judge, Pune.
Date of Order	‡ 09/12/2021
Order signed by the Presiding Officer	‡ 09/12/2021
Order Uploaded on	‡ 10/12/2021