

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Writ Petition No. 85/2022

Lokesh Raipure s/o Late Shri Nandram Raipure

..VS..

State of Maharashtra and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Shraddanand Bhutada, Advocate for the petitioner
Ms. Hemlata Jaipurkar, APP for respondent nos. 1 to 3/State

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.

DATED : 10/02/2022

The petitioner who is the youngest son of Shri Nandram Raipure has challenged the registration of First Information Report No.620 of 2021 dated 30.12.2021 on the report made by his elder sister – respondent no.4. The respondent no.5 is also a sister of the petitioner and while the respondent no.6 is elder brother of the petitioner. It appears that the dispute amongst them has arisen pursuant to execution of a Will by their father who expired on 11.10.2020. It is the case of the petitioner that on four earlier occasions various reports were lodged by his sisters and elder brother alleging the role of the petitioner in preparing the Will of his father. The first complaint is dated 14.01.2021 and in Criminal Writ Petition No.186 of 2021 this Court accepted the stand taken by the Investigating Officer that there was no need to register any offence based on the complaint made in that regard. Other remedies were kept open. It is submitted that yet another complaint based on the same lines was made on 17.02.2021 which after enquiry from the Investigating Officer was found to have a colour of civil dispute. No offence was accordingly registered. Despite that, third complaint on 10.07.2021 was again lodged by the elder brother of the petitioner in the same matter. This complaint also met the same fate by refusing to register any offence and granting liberty to approach the competent Court with that regard. It is further submitted that yet another

complaint dated 26.07.2021 was lodged by the respondent no.5 against the petitioner and the Notary who had notarized the said Will. This complaint was also closed by the Investigating Officer by his communication dated 11.08.2021. This was after noting that Civil Suit No.198 of 2021 was pending between the parties.

In the aforesaid backdrop, it is urged that on the same set of allegations the present First Information Report has been lodged which amounts to abuse of process of law. In that regard reliance is said to be placed on the decisions in *Kapil Agarwal & Others Versus Sanjay Sharma & Others* [(2021) 5 SCC 524], *A.P. Mahesh Cooperative Urban Bank Shareholders Welfare Association Versus Ramesh Kumar Bung & Others* [(2021) 9 SCC 152], *Anju Chaudhary Versus State of Uttar Pradesh & Another* [(2013) 6 SCC 384]. It is thus prayed that this Court may stay further investigation in the matter pending consideration of the prayer for quashing the First Information Report.

We have perused the First Information Report.

Issue notice for final disposal of the writ petition returnable in three weeks.

Learned Additional Public Prosecutor Ms H.N. Jaipurkar waives notice for the respondent nos.1 to 3.

In the meanwhile, though the investigation may continue no charge-sheet shall be filed in the present offence without leave of the Court. The prayer for staying further investigation in the matter based on the contentions recorded hereinabove shall be considered after the respondents are duly served.

JUDGE

JUDGE