



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 306 OF 2023

1. Sanjay S/o Padmakar Darandale
Age: 52 years, Occu: Agril,
R/o. Landewadi, Tal-Newasa,
Dist. Ahmednagar.
2. Rushikesh S/o Sanjay Darandale
Age: 22 years, Occu: Education,
R/o. Landewadi, Tal-Newasa,
Dist. Ahmednagar.
3. Ravindra S/o Kondiram Harde
Age: 32 years, Occu: Agril,
R/o. Belekarwadi, Tal-Newasa,
Dist. Ahmednagar.
4. Baban S/o Padmakar Darandale
Age: 56 years, Occu. Agril,
R/o. Landewadi, Tal-Newasa,
Dist. Ahmednagar.

...PETITIONERS
[Orig. Accused]

VERSUS

1. The State of Maharashtra
Through the Police Inspector,
Sonai Police Station, Sonai,
Tal. Newasa, Dist. Ahmednagar.
2. Superintendent of Police, Ahmednagar,
Tal. & Dist. Ahmednagar.
3. Bharat S/o Ramrao Jadhav
Age: 44 years, Occu. Advocate,
R/o. Sonai, Tal- Newasa,
Dist. Ahmednagar.

...RESPONDENTS

Mr. K.N. Shermale, Advocate for petitioners
Mr. A.S. Gandhi, Advocate for respondent No. 3
Mr. N.S. Tekale, APP for respondent No. 1 and 2-State

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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

**RESERVED ON : 19th AUGUST, 2025
PRONOUNCED ON: 04th SEPTEMBER, 2025**

JUDGMENT: [PER NITIN B. SURYAWANSHI, J.]

1. Rule. Rule made returnable forthwith. With the consent of parties heard finally at the admission stage.

2. Petitioners by this petition filed under Article 226 and 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure, seek quashing of FIR No. 0150 of 2021 dated 09.05.2021 registered with Sonai Police Station, Sonai, Taluka- Newasa, Dist. Ahmednagar for offence under Section 379 r/w 34 of Indian Penal Code.

3. Respondent No. 3 lodged FIR against the petitioners in short alleging that, he and his family members purchased the property Gut No. 150 (for short "the said land") of Namrata Attal and Vishal Attal through power of attorney holder Rajendra Shrinivas Attal by executing a registered sale deed. At the time of purchase of said land, there was standing sugarcane crop in the said land. Informant registered the sugarcane crop with Mula Sugar Factory, Sonai, in the name of his mother and brother. On

04.05.2021 at about 06.00 am informant went to the said land, at that time, sugarcane crop was standing in the land. On 06.05.2021 at about 2.30 pm, he came to know that petitioners are cutting the sugarcane and transporting it. Therefore, he went to the said land and saw that petitioners were cutting the sugarcane with the help of harvester and were transporting it in the truck and tractor. Since he reached there, they left the said land by leaving the sugarcane in 3 Ghunta area. He tried to inquire as to where stolen sugarcane was disposed of. However, he could not get any information. Therefore, he realized that petitioners have stolen the sugarcane crop from the said land. He therefore lodged FIR on 09.05.2021.

4. Pursuant to the investigation, charge sheet came to be filed in the crime and case is registered as Regular Criminal Case No. 716 of 2023, petitioners seek quashing of the same.

5. Heard learned advocate for the petitioners, learned APP for State and learned advocate for respondent No. 3.

6. Learned advocate for the petitioners by relying on *Mohd. Khalid Khan vs. State of Uttar Pradesh and Another*¹,

1 (2015) 15 SCC 679

*Govind Prasad Kejriwal Vs. State of Bihar and Another*², decision in *Urmila Devi and Others Vs. Balram & Another*³ and *Mohammad Wajid & Another Vs. State of U.P. & Others*⁴ submitted that civil dispute in respect of said land is converted into a criminal prosecution by the respondent No. 3. By pointing out documents in the charge sheet he submitted that sugarcane registered in the name of Petitioner No. 3 with Sanganmer Sugar Factory from Gut No. 99 at Ganeshwadi was given to that sugar factory. Therefore, it cannot be said that petitioners have stolen the sugarcane of the informant. He submitted that there is dispute in respect of possession of land Gut No. 150 for which Regular Civil Suit No. 89 of 2021 is filed by the informant and his mother and brother seeking declaration that they are owners and possessors of said land and petitioners should not obstruct the peaceful possession of the informant. He further submitted that by filing written statement the said suit is opposed by the petitioners. He further submitted that Regular Civil Suit No. 646 of 2022 is filed by daughter of Petitioner No. 1 for partition and separate possession and for a declaration that sale deed executed by Petitioner No. 1 in favour of Rajendra Attal is null

2 (2020) 16 SCC 714

3 Criminal Appeal No. 3300 of 2025

4 Criminal Appeal No. 2340 of 2023

and void. He therefore submitted that only with a view to pressurize the petitioners in the civil suit they are falsely implicated in the present crime. He submitted that there is delay in lodging FIR. Since, the civil dispute is going on between the parties, prosecution against the petitioners is liable to be quashed.

7. Learned APP and learned advocate for informant/respondent No. 3 strenuously opposed the petition. They submitted that there is sufficient material on record to show the involvement of petitioners in the present crime. They pointed out that sugarcane from the said land was registered by informant with Mula Sugar Factory in the name of his mother and brother. It is further pointed out that competent Civil Court has issued injunction in favour of respondent No. 3 thereby prohibiting petitioners from interfering in his peaceful possession of the property. Since the petitioners breached that injunction, respondent No. 3 has filed second complaint against the petitioners. The witness who has seen petitioners carrying away sugarcane from the said land of respondent No. 3 was threatened by the petitioners, hence, he has lodged complaint against petitioners, which is registered as non cognizable case.

There is no merit in the contention of petitioners that this is a civil dispute, which is converted into criminal prosecution. They, therefore, submitted that prima facie there is sufficient material on record to conduct criminal trial against the petitioners.

8. Heard learned advocate for the petitioners, learned APP for State and learned advocate for respondent No. 3 at length. With their assistance we have perused the record and citations relied upon by the petitioners.

9. Record indicates that in the charge sheet, there is a statement of adjacent land owner Sachin Ghavte who has seen the petitioners cutting sugarcane from the said land of respondent No. 3 with the help of harvester and carrying it away in truck and tractor. There is also a statement of owner of harvester stating that on 05.05.2021 Petitioner No. 3 came to him and requested him to harvest his sugarcane from the field situated in Landewadi Shivar as the sugarcane was not harvested by the sugarcane factory as there was dispute between him and his brother. He wanted harvester for harvesting sugarcane and he intended to sell the sugarcane to Sangamner Sugar Factory. Accordingly, he accompanied Petitioner No. 3 to the sugarcane field. When they started harvesting the

sugarcane, he received a phone call from one Pankaj Jadhav stating that sugarcane field belongs to him and they should not harvest the sugarcane. He therefore left the field. There is also a statement of Rajendra Attal from whom respondent No. 3 has purchased the said land. He has stated that he has sold the said land to respondent No. 3 on 17.03.2020 and at the time of sale, sugarcane crop was standing in the said land. The sugarcane of respondent No. 3 from the said land was registered with Mula Sugar Factory, which is clear from the letter issued by said sugar factory dated 26.04.2021, wherein it is stated that adjacent agriculturists prevented harvesting of the sugarcane crop, therefore, they have not harvested the crop. The spot panchnama conducted during the investigation also shows that sugarcane crop in the said land was harvested. Thus, there appears prima facie material on record to show that petitioners have taken away the sugarcane crop from the said land.

10. We have carefully perused the FIR and material collected during the investigation. In our opinion it cannot be said that FIR does not disclose commission of offence. Whether or not the allegations made in the FIR are true has to be decided on the basis of evidence to be led at the trial. There is no such

inordinate delay in lodging FIR which at this stage can be said to be fatal to the prosecution. In the facts of the present case, ground of delay in lodging FIR therefore cannot be considered as valid ground for quashing the FIR against the petitioners.

11. There is no merit in the contention of the petitioners that since there is civil dispute pending between the parties, same is being converted into criminal prosecution by the informant. It is necessary to mention here that FIR is lodged in the year 2021 whereas the civil suit is filed subsequently in the year 2022. While considering the prayer of the petitioners, we cannot conduct mini trial and go into the aspect as to whether there is substance in the allegations made in the FIR. We have to take FIR as it is without adding or subtracting anything and to see whether allegations made in the FIR, prima facie make out a case against the petitioners.

12. In *Mohd. Khalid Khan* (supra) the Apex Court has observed that, High Court by relying on prima facie incorrect facts refused to quash the proceedings. Civil Suit and appeal concerning dispute between the parties related to ownership of lands was pending. Validity of hiba [oral gift] involved in the dispute. In these facts, it was held that at this stage no criminal

case was made out against appellant-accused. Hence, proceedings was quashed.

This decision is rendered in different facts.

13. In *Govind Kejriwal* (supra), cognizance taken in a complaint case by the Trial Court was quashed holding that, no prima facie case is made out by the complainant therein and the dispute was purely of civil nature.

Such are not the facts of the present case.

14. In *Mohammad Wajid* (supra) it was held that, criminal antecedents of the accused cannot be a sole consideration to decline to quash the criminal proceedings.

15. In *Urmila Devi* (supra) in the facts of that case the Supreme Court did not find that offences of conspiracy to fabricate a forged will after the death of testator, which was then used to circumvent the sale deed were made out against the accused/appellant therein. Hence, proceedings in the complaint case against the appellant therein were quashed.

This decision is also rendered in different facts and therefore is of no help to the petitioners.

16. For the aforestated reasons, we find no merit in the writ petition. Writ petition is therefore dismissed. Rule is discharged.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)