

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 315 OF 2015

Dharma s/o. Babu Bagal and Anr.**Applicants.**

Versus

The State of Maharashtra and Anr.**Respondents.**

Mr. A.R. Devakate, Advocate for applicants.

Mr. K.S. Patil, APP for State.

Mr. S.K. Doke, Advocate for respondent No. 2.

WITH
CRIMINAL WRIT PETITION NO. 241 OF 2015

Bhagwan s/o. Shivling Lokare and Ors.**Applicants.**

Versus

The State of Maharashtra and Anr.**Respondents.**

Mr. S.K. Doke, Advocate for petitioners.

Mr. K.S. Patil, APP for State.

Mr. A.R. Devakate, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE &
SMT. I.K. JAIN, JJ.**

DATED : 27th March, 2015.

ORDER :

1. The first proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. bearing C.R. No.1/2015 (Part VI) registered in Paranda Police Station,

District Osmanabad for the offences punishable under section 323 of I.P.C. and under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The writ petition is filed for the relief of quashing of F.I.R. bearing C.R. No.1/2015 registered in the Paranda Police Station, District Osmanabad for the offences punishable under sections 436, 323, 143, etc. of I.P.C. and section 135 of Bombay Police Act. As both the sides have filed reports against each other, both the matters were heard together. The learned APP opposed both the applications.

2. In the first case, the crime is registered on the basis of report given by Suresh Lokare. He has contended that on 2.1.2015 after 2.00 p.m. when he, his brother, his father were present in the land Gat No. 64 from village Bramhgaon, Tahsil Paranda, the accused came there, they gave abuses by taking the name of caste of complainant which is a scheduled caste. He has contended that threat of life was given and abuses were also given in filthy language and then assault was made on them by using stick. This incident was witnessed by Shrihari Ghube and Laxman Kamble. He has contended that to falsely implicate, complainant and his family, these accused persons then set fire their own cattleshed and gave report to police.

3. In the other crime, Dharma Bagal has made allegations that when he was present in the house on the same day, after 1.30 p.m. the accused persons came to his shed and they started construction of their own shed. He has contended that when he asked as to why they were making construction in his field, the accused persons quarreled with him, assaulted him and then they set fire to his cattleshed and the fire was set by Bhagwan Lokare. He was admitted to hospital as he was assaulted.

4. In the crime registered for offence punishable under section 436 of I.P.C., there is spot panchanama showing that the incident in which the shed and cattleshed of the complainant Dharma were burnt, thus the allegation has corroboration of circumstances. Both the sides gave reports against each other in respect of almost same incident.

5. The learned counsel for applicant in Criminal Application No. 315/2015 submitted that the land where the so called incident took place belongs to them and there was no reason for the accused persons to go there and only to pressurize the applicants from Criminal Application No. 315/2015

false report was given and that too under the provisions of Special Act. This submission cannot be accepted atleast at this stage. Though it can be said that there is some record with the applicants of this proceeding to show that the portions of the accused, complainant's side were purchased by them and names are also entered in the revenue record of the applicants from Criminal Application No. 315/2015, the fact remains that the incident of fire did take place. The spot panchanama and the contentions made in the F.I.R. given by Suresh Lokare shows that he has made allegations that there was cattelshed of Dharma Bagal and he had set fire to his own cattleshed. Thus, there is material against both the sides. There were witnesses to the incident. In view of these circumstances, this Court holds that it is not possible to quash the F.I.R. given by both the sides against each other.

6. So, both the proceedings stand dismissed.

[SMT. I.K. JAIN, J.]

[T.V. NALAWADE, J.]

ssc/