

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.632 of 2015

Kalyan Chandrasen Pingle
And Others.

.. Applicants.

Versus

The State of Maharashtra.

.. Respondent.

Shri. Rajendra G. Hange, Advocate, for applicant.

Shri. N.B. Patil, Additional Public Prosecutor, for
respondent.

Shri. Yogesh G. Somani, Advocate, to assist the APP.

CORAM: T.V. NALAWADE, J.

DATE : 23rd FEBRUARY 2015

ORDER:

1) The application is filed for relief of anticipatory bail. Both the sides are heard. Learned counsel Shri. Yogesh Somani was allowed to assist the learned Additional Public Prosecutor.

2) Crime is registered on the basis of report given by lady Advocate. She has contended that in one incident

dated 17-1-2015 when she and her relatives were present in their hotel, the applicants came there, they assaulted the brother of the complainant and they said that they should not do their business there. Allegations are made that when the complainant intervened applicant No.2, Meghraj caught hold of her hand and gave abuses by taking name of her caste, which is a scheduled caste. It is her case that due to this conduct of Meghraj she felt insulted and the crime is registered for offence under section 354 of Indian Penal Code. In view of nature of allegations, crime is also registered for offence under section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. It appears that in respect of one incident of the same date i.e. 17-1-2015 the applicants side also gave report against the complainant side and they made allegations that they took away cash amount of Rs.2000/- and one gold Mangalsutra weighing 4 Tolas. Crime is registered for offence under section 395, Indian Penal Code against the complainant side.

3) The submissions made show that applicants side purchased land Survey No.75 which is consisting of

at least 5 City Survey Numbers in the year 2010 under a sale deed. It appears that the complainant side is contending that they are in possession of 40 x 30 square feet space from Survey No.75 and they have been running their business there like using Xerox machine etc. since 1995. The complainant side had filed one civil suit which was initially for relief of injunction and it was subsequently converted for the relief of declaration of title also.

4) The submissions made show that the complainant side is apparently contending that by making encroachment on the land, they have erected some structure. The dispute started in the year 2014. Both the sides submitted applications against each other. One crime is registered in the year 2014 against the applicants side. In the year 2014 the applicants side had given complaint to the effect that the complainant side was likely to file false complaint against them under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and in fact those provisions are used by the complainant.

5) It appears that the Civil Court has granted relief of temporary injunction in favour of the complainant side and it is observed that it is desirable for the applicants side to take steps for taking possession but they have to do it by following procedure established by law.

6) In view of nature of dispute between the parties and the crime is registered for offence under section 354, IPC, this Court holds that protection needs to be granted to the applicants.

7) In the result, the application is allowed. The interim relief granted is confirmed.

Sd/-
(T.V. NALAWADE, J.)

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