

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

APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO.: 4676 OF 2014

Sachin s/o Namdeorao Pawar,

Age: 33 years, Occ: Business,

R/o: 'Shivalaya', Plot No.13,

Surana Nagar, Jalna Road,

Aurangabad, Taluka and District

Aurangabad.

... **APPLICANT**

VERSUS

1] **The State of Maharashtra**
Through the Police Inspector,
Kannad Police Station Kannad,
(Rural), Taluka: Kannad,
District: Aurangabad.

2] **The Superintendent of Police (Rural),**
District Aurangabad.

3] **Jamunabai w/o Sarjerao Gaikwad,**
Age: 55 years, Occ : Labourer,
R/o: Village Mukranpur, Taluka:
Kannad, District Aurangabad.

... **RESPONDENTS**
(No.3 – Original Complainant)

Mr. R.S.Deshmukhy, Advocate for the Applicant.

Mrs. R.K. Ladda, APP for Respondent Nos.1 and 2.

Mr.R.V.Gore, Advocate for Respondent No.3.

**CORAM:- T. V. NALAWADE &
INDIRA K. JAIN, JJ.
DATED :- 21st April, 2015.**

JUDGMENT [Per Indira K.Jain, J.]:

Rule. Rule made returnable forthwith. By consent of the parties, criminal application is heard finally.

2 Learned APP is also heard.

3 This petition under Section 482 of the Code of Criminal Procedure is filed for quashing and setting aside FIR in Crime No.II-45 of 2014, registered with Kannad Police Station (Rural), Taluka Kannad, District Aurangabad, for the offences punishable under Sections 323 read with 34 of the Indian Penal Code and Section 3(1) (x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4 The facts giving rise to the instant application can be stated, in brief, as under:

Respondent No.3/ Jamunabai Gaikwad alongwith the family members resides at Kannad. She and others in family are cultivating 5 Acres, 5 Gunthas agricultural land situated at Vitthalpur Shivar on Kannad – Aurangabad road. It was an Inam land initially

cultivated by her father in-law Shravan and then by her husband Sarjerao. She lost her husband 30 years before. After the death of husband, she could cultivate the said land for 5-6 years. Applicant/ Sachin Namdeorao Pawar, runs Milk dairy adjoining to the land of Complainant. She belongs to Bhill caste.

5 According to Complainant, on 10th July, 2014, at 10:00 am, she alongwith her son Nana had been to field to undertake sowing operation. At around 12:00 noon, Applicant/ Sachin Pawar with his driver and two others entered the field. Sachin abused her on caste. They beat Complainant and her son. That time, Mangala, daughter and Vanita, daughter in-law of Complainant rescued them.

6 On 16th July, 2014, again similar incident took place. Applicant/ Sachin entered the field. He abused her on caste and then all beat the Complainant. It is alleged that Sachin was attempting to cultivate Complainant's land. So, she reported the incidents to Kannad Police Station.

7 This Court vide order dated 27th March, 2015, directed the Complainant to show record in respect of land in which alleged incident took place. She did not produce 7/12 extract or any other document of land Gat No.63, situated at Vitthalpur, Shivar.

8 On the other hand, Applicant had produced 7/12 extracts of the disputed land for the years 2011-12 and 2013-14. These extracts show that initially land was occupied by Bhaginath More, who sold the same to Shrikant Pundlik Thakur. On 7th July, 2011, Shrikant Pundlik Thakur sold the land to present Applicant/ Sachin Pawar. Relevant documents including copies of sale-deed/s have been placed on record by the Applicant.

9 In this connection, learned counsel for Respondent No.3 vehemently contended that defence of Applicant cannot be considered at this stage and he has to face the trial. In support thereof, learned counsel relied upon **Ravindra Kumar Madhanlal Goenka & Anr. Vs. Rugmini Ram Raghav Spinners P. Ltd.**¹. In this case, there was a breach of business transaction and dispute of payment of entire advance amount arose. Respondent filed complaint under Section 200 of the Code of Criminal Procedure. The offences under Sections 120B, 406, 420, 384 of the Indian Penal Code were registered. In the facts and circumstances of the case, the Hon'ble Supreme Court held that the case was not one of those extreme cases where criminal prosecution can be quashed by the Court at the very threshold. It was observed that defence was

1 2010 (3) SCC (Cri) 1011

required to be considered at later stage and accordingly appeal was dismissed.

10 In the case on hand before us, facts are entirely different. Respondent No.3 claims ownership of the land in question. No supporting documents have been filed by Complainant to show her entitlement. All the documents placed during the course of investigation clearly point out that Applicant is holding the land and not Respondent No.3. There was no reason for Complainant to enter the field of Applicant. The learned counsel for the parties made a statement that no civil litigation is pending between the Applicant and Respondent No.3.

11 In this premise, we hold that FIR is not genuine and true and it is a fit case to exercise discretion under Section 482 of the Code of Criminal Procedure.

12 In the result, FIR in Crime No.II-45 of 2014, registered with Kannad Police Station (Rural), Taluka Kannad, District Aurangabad, for the offences punishable under Sections 323 read with 34 of the Indian Penal Code and Section 3(1)(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby quashed and set aside.

13 Rule is made absolute in above terms.

ndm [INDIRA K. JAIN, J.] [T. V. NALAWADE, J.]