

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

CRIMINAL APPLICATION NO. 4889 OF 2014

Archana Yogiraj Anjan **....Applicant.**

Versus

Madan s/o. Ganpati Ubale
and others **....Respondents.**

Mr. N.P. Patil-Jamalpurkar, Advocate for applicant.

Mr. N.L. Jadhav, Advocate for respondent Nos. 1 to 10.

Mrs. M.A. Deshpande, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 11th February, 2015.

ORDER :

1. The application is filed under section 439 (2) of Cr.P.C. for cancellation of the order of anticipatory bail made by the learned Additional Sessions Judge, Ambajogai in C.R. No. 166/2013 of Ambajogai Police Station. Both the sides are heard. The learned APP is also heard.

2. The crime is registered on the basis of directions given by the learned J.M.F.C. to make investigation under section 156 (3) of Cr.P.C. There are allegations against respondents that they had entered the disputed property illegally, they had

assaulted the members of the family of the complainant and when injured went to the hospital, they had demolished the structure by using J.C.B. machine and they took away ornaments kept in the house. Allegations are also made that they misbehaved with the lady members of the family of the complainant and thereby committed the offences punishable under sections 149, 354, 395 etc. of I.P.C.

3. The incident in question took place on 9.6.2013. The learned counsel for applicant submitted that as the police did not take the cognizance of the matter, application/representation was made to D.S.P. on 10.6.2013. He submitted that when cognizance of the matter was not taken by the higher authority, private complaint was filed in Court on 7.12.2013 and then the order of investigation was made by J.M.F.C. This Court has perused the representation dated 10.6.2013. Allegations made in the said representation were materially different from the allegations made in the private complaint. There was no whisper about the offence punishable under section 354 of I.P.C. in the representation dated 10.6.2013. This Court has perused the papers of investigation which include the spot panchanama. There is no record to show that there was any structure and by using J.C.B. Machine, it was

demolished. There are no statements of villagers showing that J.C.B. machine was used and they had witnessed any kind of such incident.

4. The learned Additional Sessions Judge granted the relief by observing that there is civil dispute between the parties and delay of about six months was caused in giving the complaint. Chargesheet is now filed. Copy of the civil suit is produced on the record. In view of the nature of material collected by police during investigation and nature of dispute, this Court holds that it is not desirable to interfere in the order made by the learned Additional Sessions Judge. Cancellation of relief like anticipatory bail granted earlier is serious matter and in view of the facts and circumstances of the present case, the order cannot be cancelled.

5. In the result, the application stands rejected. The observations are for the purpose of present proceeding only.

[T.V. NALAWADE, J.]

ssc/