

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

Criminal Application No. 5480 of 2014

1. Bajirao s/o. Narayanrao Chormare,
Age : 50 years,
Occupation : Agriculture,
R/o. Ambelohol, Taluka : Gangapur,
District : Aurangabad.

2. Kisan s/o. Dhamaji Gavali,
Age : 50 years,
Occupation & R/o. as above.

3. Ramesh s/o. Chagan Ballal,
Age : 40 years,
Occupation & R/o. as above.

.. Applicants.

versus

1. The State of Maharashtra,
Through Police Station, MIDC,
Waluj, Aurangabad,
District : Aurangabad.

2. Bhaskar s/o. Jagannath Jadhav,
Age : 62 years,
Occupation : Labour,
Resident of ambelohol,
Taluka : Gangapur,
District : Aurangabad.

.. Respondents.

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Mr. P.N. Sonpethkar, Advocate, for the applicants.

*Mr. S.G. Nandedkar, Additional Public Prosecutor, for
respondent no.1 - State.*

Mr. V.S. Undre, Advocate, for respondent no.2.

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

DATE : 29TH JANUARY 2015

ORAL JUDGMENT (Per S.S. Shinde, J.) :

1. Heard Adv. Mr. P.N. Sonpethkar for the applicants, learned APP Mr. S.G. Nandedkar for respondent no.1 - State, and Adv. Mr. V.S. Undre for respondent no.2.

2. By the present application, the applicants have prayed that the FIR No. 3017/2014, registered at Police Station, M.I.D.C., Waluj, Aurangabad, for offences punishable under Sections 323, 504, 506, read with Section 34 of the Indian Penal Code, and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the applicants, be quashed and set aside.

3. It is the contention of the learned Counsel appearing for the applicants, that in view of the judgment of the Hon'ble Apex Court, in the case of *Anil Kumar & others Vs. M.K. Aiyappa & another*, reported in (2013) 10 Supreme Court Cases 705, the Magistrate ought to have recorded reasons while directing the Police Officer to investigate into the crime, as per mandate of Section 156(3) of the Code of Criminal Procedure, 1973. He further submits that even if allegations in the complaint are taken in its entirety, no cognizable offence is disclosed. He submits that the

complainant is in the habit of filing false complaints. Therefore, he submits that the application deserves consideration.

4. On the other hand, the learned Additional Public Prosecutor appearing for the State submits that upon perusal of the complaint, cognizable offence has been disclosed. He further submits that brief reasons are assigned by the Magistrate. He further submits, that already investigation is done and statements of three witnesses recorded before passing the interim order by this Court.

5. We have heard the parties and perused the allegations in the complaint.

6. It is stated by the complainant that though he approached the Police for registration of the FIR, the Police Officer advised him to approach the court and accordingly complaint was filed by him. Upon reading allegations in the complaint, *prima facie*, it appears that cognizable offence is disclosed. Therefore, the concerned Police Officer was bound to register FIR, if the allegations in the FIR disclose a cognizable offence.

7. The Hon'ble Apex Court, in the case of ***Lalita Kumari Vs. Government of Uttar Pradesh & others***, reported in (2014) 2 Supreme Court Cases 1, has held, that '*the registration of FIR is mandatory under Section 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation*'.

8. In that view of the matter, and the fact that in pursuance to the directions issued by the Magistrate, investigation proceeded and as a matter of fact, the Investigating Officer has recorded statements of three witnesses before passing interim order by this Court on 14th October 2014. Therefore, in the peculiar facts of this case, in our opinion, when the investigation has progressed further and the statements of witnesses also disclose the alleged commission of offence, we are not inclined to exercise jurisdiction under Section 482 of the Code of Criminal Procedure, so as to quash the order passed by the Magistrate.

9. The Application sans merit and the same is dismissed. Rule is discharged.

(A.M. BADAR)
JUDGE

(S.S. SHINDE)
JUDGE

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