

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (ABA) No. 169 of 2015
Arun Daulatrao Malkhede and others vs. State of Maharashtra

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Mr. R.M.Mardikar, Adv. for applicants.

Mrs. N.P.Mehta, APP for the state.

CORAM : PRASANNA B. VARALE, J

DATE : 28.4.2015

Heard, Mr. Mardikar, the learned counsel for the applicants. Perused the order passed by this court dated March 30, 2015 whereby the applicants were protected by ad interim orders. The applicants are apprehending their arrest in Crime No. 34 of 2014 registered at Rajapeth Police Station, Amravati. It is alleged in the report that these applicants entered in the dwelling house of the complainant and removed the articles from the house. Their entry in the house as well as their exist from the house was on illegal act. Thereafter, the applicants committed theft of the articles. Mr. Mardikar, the learned counsel vehemently submitted that the informant/ complainant with revengeful attitude and to suit his

ill intention lodged a false report. In support of his submissions, Mr. Mardikar invited my attention to the documents placed on record. It was the submission of Mr. Mardikar that the applicants themselves approached Rajapeth Police Station on 30.9.2013 raising the grievances against the informant/ complainant and his family members for abusing and manhandling. Mr. Mardikar then submitted that the complainant Hariram Chaudhary filed a civil suit against the applicant no.1 for declaration and injunction. The submission of Mr. Mardikar is that though the applicants had approached the Police Station Authorities of Rajapeth Police Station on 30.9.2013, for the reasons best known to the authorities, no action was taken on the report of the applicants wherein serious grievance was raised against the complainant Mr. Hariram Chaudhary and his family members. Mr. Mardikar by inviting my attention to the report submitted that it was stated in the report dated 30.9.2013 that the applicant no.1 was so disturbed and depressed because of the act of Hariram Chaudhary and family members on 29.9.2013 that caused admission of the applicant no.1 in the hospital. The applicant no.1 was admitted in the hospital for a period of a week. Mr. Mardikar, then submits that on the backdrop of these facts, it is

clear that the complainant, on all false allegations, is bent upon to see that the applicants are subjected to criminal proceedings. Mr. Mardikar, then submits that the applicant no. 2 is a lady in her advanced age whereas the applicants 3 and 4 are also ladies. The applicant no.3 is prosecuting her study and applicant no.4 is engaged in a private service. Mr. Mardikar submits that on the backdrop of the vague allegations, a revengeful act of the complainant, if the applicants are subjected to custodial interrogation it will be nothing but to satisfy the ill will of the complainant.

Learned APP vehemently opposes the application. The learned APP submits that the investigating agency has recorded the statements of the witnesses who are the eye witnesses to the incident.

I have gone through the material placed on record as well as presented by the learned APP for my perusal. The copy of the report made to Rajapeth Police Station on 30.9.2013 reveals that the grievance was raised that on 29.9.2013 Mr. Hariram Choudhary and his family members gave abuses and stick blows to the applicant no.1 and also

gave threats and denied to vacate the premises. It is stated in the report that the applicant no.1 was admitted in one private hospital on the very day i.e. on 29.9.2013 and on 30.9.2013 Mr. Chaudhary and his family members entered in the house of the applicants and gave abuses. The documents placed on record include the certificate issued by the private hospital referring that the applicant no.1 was admitted in the hospital from 29.9.2013 to 6.10.2013. The other documents reveal that the applicant no. 1 was subjected to various tests and pathology reports were also sought. The cardiographs are also placed on record dated 29.9.2013 and 30.9.2013. The graphs reveal the changes and endorsement of the Medical officer as abnormal and actue MI. The papers placed on record i.e. discharge card issued by Patankar Hospital also refers that the patient was advised angiography. Thus, these documents at least suggest that the applicant no.1 was under medical treatment from 29.9.2013 till 6.10.2013 and his ailment was a serious ailment. The other documents placed on record is the copy of the suit filed by Mr. Chaudhari seeking declaration and injunction. Thus, these documents also support the submissions of Mr. Mardikar that the dispute between the parties having been purely of a civil nature, is attempted to

converts it in criminal offence to suit the purpose of the complainant. The documents show that the parties were having dispute of civil nature. On the backdrop of the fact that the applicant no.1 was admitted in the hospital for a period of one week, the statements recorded by the Investigating Agency needs a serious look and it will be difficult to accept these statements on their face value. Considering all these facts, in my opinion, the learned counsel made out a case for bail.

The application is, thus, allowed. Interim protection granted to the applicants is confirmed. The apprehension of the State can be taken care of by imposing conditions on the applicants. The applicant no.1 to attend the Rajapeth Police Station, Amravati on every 2nd and 4th Sundays between 9.00 a.m. to 12 noon and the applicants 2,3 and 4 to attend the Rajapeth Police Station, Amravati once in a month on second Sunday only from 9.00 a.m. to 12 noon till filing of the charge sheet.. The applicants to maintain the diary of their attendance duly countersigned by the concerned P.S.O..

JUDGE

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