

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

CRIMINAL APPLICATION (APL) NO. 439 OF 2015.

Vijay Pandurang Doifode and ors.. ..vs.. The State of Mah. and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.M.G.Sarda Adv. for the applicants.
Mr.D.B.Patel, APP for the State.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : JULY 13, 2015.

Heard.

Perused FIR. The learned counsel for the applicants submits that the land on which right of a egress and ingress has been claimed is the government land and as such Section 441 of the Indian Penal Code is not attracted. He further pointed out that in view of pendency of civil dispute between parties, in any case no intention to encroach or to commit alleged trespass can be inferred. Lastly, it is stated that alleged abuses or threats are false and have been implanted only to pressurize the applicants. Learned counsel also adds that contents of F.I.R. do not show an assertion that alleged trespass was with an intention to commit an offence. He is relying upon judgment of learned Single Judge of this Court dated 19th of August, 2013 in Criminal Writ Petition No.1704 of 2012 delivered at Bombay.

Learned Additional Public Prosecutor has taken us through the allegations contained in FIR.

We have perused FIR. FIR shows that after resolution of civil dispute, in an execution proceedings, alleged encroachment was removed. After removal of that encroachment, again the complainant has alleged a fresh incident.

Correctness or truth of those assertions cannot be gone into

at this stage. We find that complainant/respondent no.2 is acting in the interest of a religious public trust.

As such, we are not inclined to interfere at this stage under Section 482 of the Code of Criminal Procedure.

Hence, without observing anything on merits and keeping all contentions open and with liberty to the applicants to raise those contentions at appropriate juncture in appropriate Court, we dispose of the Criminal Application.

No costs.

JUDGE

JUDGE

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