

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO.:3247 OF 2015

Sahebrao S/o Mahadeo Mane and others
VERSUS
The State of Maharashtra and another

...

Mr. S. S. Thombre, Advocate for the Applicants.

Mr. S. D. Ghayal, A.P.P. for Respondent No.1.

Mr. Shantanu Udhan, h/f Mr. V. D. Salunke, Advocate for Respondent No.2.

...

WITH

CRIMINAL APPLICATION NO.:3248 OF 2015

Mahadeo S/o Eknath Mane and others
VERSUS
The State of Maharashtra and another

...

Mr. S. S. Thombre, Advocate for the Applicants.

Mr. S. D. Ghayal, A.P.P. for Respondent No.1.

Mr. Shantanu Udhan, h/f Mr. V. D. Salunke, Advocate for Respondent No.2.

...

AND

CRIMINAL APPLICATION NO.:3298 OF 2015

Sahebrao S/o Mahadeo Mane and others
VERSUS
The State of Maharashtra and another

...

Mr. S. S. Thombre, Advocate for the Applicants.

Mr. S. D. Ghayal, A.P.P. for Respondent No.1.

Mr. Shantanu Udhan, h/f Mr. V. D. Salunke, Advocate for Respondent No.2.

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CORAM : **A. V. NIRGUDE &
INDIRA K. JAIN, JJ.**

DATE : 12th January, 2016.

P.C.:

. All these applications are seeking quashing of criminal cases.

2 In all these cases, Complainant alleged repeatedly that she was in possession of land Gat No.874/A/1. She alleged that Applicants / Accused committed trespass on this land and either took away the crops or committed different offences at different times. The question before the Police Officer who took cognizance of these complaints was whether the Complainant was in possession of the land mentioned above. During the investigation, the Applicants / Accused repeatedly pointed out to the Investigating Officer that this land was in their possession since 2005. On 10th January, 2005, they had obtained an order of temporary injunction against Complainant's son Baban, whose name appears in 7/12 extract of the land. The Civil Court passed a reasoned order as to why the Applicants / Accused would be entitled to temporary injunction. It appears from record that Defendant / Baban appeared before the Civil Court and expressed his no objection for continuation of such order. We are told that the order is still in force and civil suit is still pending.

3 In view of this, the Investigating Officer has to realize that any action on his part after taking cognizance of complaint would amount to violation of order of injunction.

4 In view of above, we are inclined to hold that the complaints were untenable and cannot be proceeded with. The criminal applications are allowed. All the complaints are set aside. There shall be order in terms of prayer clause (B).

[INDIRA K. JAIN, J.]

[A. V. NIRGUDE, J.]

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