

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

**CRIMINAL APPLICATION NO. 5813 OF 2016**

1. Prakash Shivchandra Jakhete
2. Aditya Prakash Jakhete
3. Sou Priti Prakash Jakhete
4. Akshay Prakash Jakhete **APPLICANTS**

**VERSUS**

1. Rajendra Radhakisan Jakhete
2. The State of Maharashtra **RESPONDENTS**

...  
Mr.Girish V. Wani, Advocate for the  
applicants  
Mr.P.S.Patil, APP for Respondent – State

...  
**CORAM: S.S.SHINDE &  
K.K.SONAWANE, JJ.**

Date: 28.11.2016

**PER COURT:**

1. Heard the learned counsel appearing  
for the applicants and the learned APP  
appearing for the respondent – State.

2. The learned counsel appearing for

the applicants submits that the complainant is not in possession of the property i.e. the shop. He further submits that on the same set of allegations, the Executive Magistrate has inquired in the matter and found that the allegations made by the complainant are baseless. He further submits that even if the allegations in the FIR are taken on its face value and read in its entirety, do not disclose ingredients of the offences alleged. Therefore, he further submits that further investigation on the basis of the FIR will be abuse of process of law. Therefore, he submits that the application may be allowed.

3. On the other hand, the learned APP appearing for the respondent - State submits that pursuant to the order passed by the Judicial Magistrate First Class, Jalgaon, on 14th March, 2016, the FIR is registered and the same is investigated. Therefore, he submits that the application may be rejected.

4. We have considered the submissions of the learned counsel appearing for the applicants and the learned APP appearing for the respondent - State. The contentions of the learned counsel appearing for the applicants that this Court should consider the order passed by the Executive Magistrate and also the fact that the complainant is not in possession is not expected while considering the prayer for quashing the FIR under Section 482 of Criminal Procedure Code. At the stage of considering the case for quashing the FIR, the High Court is expected to find out from the allegations made in the FIR, whether prima facie the alleged offences are disclosed or otherwise. We have carefully perused the allegations in the FIR and we are of the view that, the prayer of the applicants to quash the FIR cannot be favourably considered for the reasons that apart from the role attributed to the

applicants, there are also allegations which would attract the provisions of Section 120-B of the Indian Penal Code.

5. Therefore, for the reasons aforesaid, we are not inclined to quash the FIR, hence the application stands rejected. We make it clear that the observations made herein before are *prima facie* in nature. We also further clarify that the rejection of this application may not be construed as an impediment for the applicants to take appropriate remedy as available in law in the event of filing of charge-sheet by the Investigation Officer.

Sd/-

**[ K . K . SONAWANE ]**  
**JUDGE**

Sd/-

**[ S . S . SHINDE ]**  
**JUDGE**