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

**CRIMINAL APPLICATION NO.6010 OF 2016**

1. Umesh s/o Rama Thombre,  
Age: 45 years,  
Occu: Auto Rickshaw Driver,  
R/o. Old Maharana Pratap Society,  
Anandwadi, Malegaon Road,  
Chalisgaon, Tal. Chalisgaon,  
Dist. Jalgaon
2. Ashish s/o Rama Thombre,  
Age: 22 years, Occu: Education,  
R/o. As above ..APPLICANTS

**VERSUS**

1. The State of Maharashtra,  
Through Police Station Officer,  
Chalisgaon, Tal. Chalisgaon,  
Dist. Jalgaon
2. Superintendent Of Police,  
Jalgaon, Tal. & Dist. Jalgaon ..RESPONDENTS

Mr A. R. Syed, Advocate with Mr S. P. Brahme,  
Advocate for applicants;  
Mr S. D. Ghayal, Addl. Public Prosecutor for  
respondents

**CORAM : A.S. CHANDURKAR, J.**

**DATE : 21st NOVEMBER, 2016**

**ORAL ORDER :**

After arguing the application for some

(2)

time, the learned Counsel for the applicants, on instructions, does not press the said application insofar as applicant No.2 is concerned. Hence, the application with regard to applicant No.2 is disposed of, as not pressed.

2. As per first information report dated 1<sup>st</sup> October, 2016 when the complainant was going on for his work on motor cycle, he was dashed from behind by auto rickshaw driver driven by applicant no.1. There was some exchange of words, after which, applicant no.2 came and assaulted the complainant on his head with steel rod. He further stated that applicant no.1 had kicked the complainant. On this basis, the aforesaid crime came to be registered.

3. It is submitted on behalf of applicant no.1 that after dash on his motor cycle, there were some verbal exchanges between the parties. It is submitted that insofar as applicant no.1 is concerned, offence attracted if any would be only under Section 323 of the Indian Penal Code.

(3)

4. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers and injuries suffered by the complainant. As per the said injury certificate, there is blunt trauma to the head of the complainant.

5. Perused the police papers. The injury certificate dated 29<sup>th</sup> October, 2016 indicate the nature of injuries suffered by the complainant. The statements of witnesses recorded also indicate some abuses were given by applicant no.1. Considering the fact that the over act is attributed to applicant no.1 and as per the said papers, the only weapon that was used was a steel rod by the applicant No.2, the applicant no.1 would be entitled for protection.

6. In view of aforesaid, in the event of arrest of applicant no.1 with regard to his arrest in Crime No. 139 of 2016 registered at Chalisgaon police station, District Jalgaon for offence

(4)

punishable under Section 307, 323, 504 read with Section 34 of the Indian Penal Code, he shall be released on furnishing P.R. bond of Rs.15,000/- with one surety in the like amount. He shall attend the concerned police station on 30<sup>th</sup> November, 2016 and thereafter as per directions of the Investigating Officer. He shall not take any steps to tamper with the material collected by the prosecution.

7. Criminal Application with regard to applicant no.1 is allowed on above terms and same is disposed of.

**(A.S. CHANDURKAR, J.)**

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