

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

CRIMINAL APPLICATION (ABA) NO.606 OF 2016
(Balu s/o Nagorao Ingale and others vs. State of Maharashtra)

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

Shri A.K. Bhangde, Advocate for applicants.
Shri H.D. Dubey, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : NOVEMBER 23, 2016

Heard learned Counsel for both sides.

The applicants are apprehending their arrest for the offences punishable under Sections 294, 506 and 323 read with Section 34 of Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act registered on the basis of report lodged by one Pratap Bhalerao contending that on 21/8/2016 when he approached applicant no.2 and demanded Rs.10,000/- towards his labour charges in respect of construction of house of applicants, applicant no.2 refused to make said payment and had abused complainant on his caste. It is further alleged that in the meantime, applicant nos.1 and 3, who are sons of applicant no.2, joined him and they too abused him and assaulted him. In the background of above incident, report came to be lodged and offences are registered.

Shri Bhangde, learned Counsel for
applicants, submits that complainant admittedly had met

with accident two years prior to incident as can be found from his complaint itself while according to case of applicants, house of applicants is constructed in the year 2016. It is, therefore, submitted that complainant having sustained physically was incompetent to carry out construction. It is thus specific case of applicants that construction work of their house was in fact carried out by Vishwanath Mahadeo Kamble and Umesh Pratap Bhalerao to whom labour charges were paid on weekly basis and total construction cost of Rs.30,000/- is already paid to them. In spite of that, complainant being in no way related to construction activity, was making demand of Rs.10,000/- and on applicants' refusal to part with said amount, are falsely involved.

Considering the case of applicants as aforesaid, it is worth to note that complainant, who had sustained injuries to his legs for which he had undergone operation two years before, was prima facie not in a position to carry out construction work, which admittedly was carried out in the year 2016, i.e. after complainant met with accident. In that view of the matter, there appears to be much substance in the case of applicants as aforesaid. The application is, therefore, liable to be allowed by confirming interim protection granted to applicants, on same terms and conditions. The interim order stands confirmed. The criminal application is accordingly allowed.

JUDGE

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