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

CRIMINAL APPLICATION (ABA) NO.686 OF 2016
(Abdul Razzaque Abdul Sattar ..vs.. State of Maharashtra, through PSO, PS Buldhana Rural, Buldhana)
WITH
CRIMINAL APPLICATION (ABA) NO.715 OF 2016
(Mohd. Razique Ab. Razaaque ..vs.. State of Maharashtra, through PSO, PS Buldhana Rural, Buldhana)

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

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Shri R.P. Joshi, Advocate for applicants,
Shri C.A. Lokhande, Addl.P.P. for non-applicant,
Shri A.J. Thakkar, Advocate for intervenor.

CORAM : P.N. DESHMUKH, J.
DATED : 06-12-2016

Both these applications are decided by this common order as same are arising out of Crime No.174/2016 registered by Police Station Buldhana (Rural) for offences punishable under Sections 143, 144, 147 148, 149, 504, 506, 324, 325, 307 of the Indian Penal Code read with 135 of the Maharashtra Police Act on 02-10-2016.

Heard Shri R.P. Joshi, learned Counsel for applicants, Shri C.A. Lokhande, learned Additional Public Prosecutor for non-applicant and Shri A.J. Thakkar, learned Counsel for intervenor who has assisted learned Additional Public Prosecutor.

Report is lodged on 02-10-2016 by Asif Khan Habib Khan with reference to injuries sustained to him

caused by co-accused Shaikh Ansar on his head by iron rod and on left hand and leg. From the report, involvement of applicant in Criminal Application (ABA) No.686/2016 is with regard to his causing assault to complainant by iron rod on his hand and leg. There is no involvement of applicants in Criminal Application (ABA) No.715/2016 in the First Information Report, which fact has not been disputed by learned Additional Public Prosecutor.

Thus, it is found that as per report applicant in Criminal Application (ABA) No.686/2016 namely Abdul Razzaque Abdul Sattar is only implicated as an assailant of complainant by iron rod on his hand and leg while he is found assaulted by co-accused Shaikh Ansar as stated above on his head by iron rod. Admittedly, co-accused Shaikh Ansar is released on bail by learned Sessions Court. In that view of the matter, *prima facie* it is noted that there is no involvement of applicants Mohd. Razique Abdul Razzaque and Mohd. Ibrahim Abdul Razzaque, both applicants in Criminal Application (ABA) No.715/2016.

Moreover learned Counsel for applicants has invited attention to the order of learned Sessions Court granting bail to co-accused wherein it is stated that from the case diary and medico legal certificates on record in respect of injured witnesses, it is found that they all had

sustained simple hurt on various parts of body and no serious injuries are noted from the documents on record.

Learned Additional Public Prosecutor to establish involvement of applicants in Criminal Application (ABA) No.715/2016 has relied upon statement of Subhan Khan and has contended as per statement of said injured eyewitness, both the applicants have assaulted complainant Asif Khan Habib Khan by iron rod, however, it is material to note that complainant Asif Khan Habib Khan, in his report, has not attributed any role to these applicants. Even otherwise statement of Subhan Khan is recorded two days after the incident.

Having considered facts as aforesaid, interim protection granted to applicants by this Court by its orders passed earlier is liable to be confirmed as per order below :

ORDER

(i) Interim order dated 19-10-2016 passed in Criminal Application (ABA) No.686/2016 and interim order dated 27-10-2016 passed in Criminal Application (ABA) No.715/2016 stand confirmed on same terms and conditions.

(ii) Applicants, however, are directed to attend Investigation Officer, if called till filing of charge-sheet.

Applications are accordingly allowed.

JUDGE

adgokar