

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

CRIMINAL APPLICATION NO.194 OF 2017

- 1) Vishnu s/o Vithal Gopane,
- 2) Shirajshah Bismillashah,
- 3) Abdul Rauf Mohammad Yusuf,
- 4) Shaikh Kadar Shaikh Badar,
- 5) Jandardhan Bhagaji Solunke,
- 6) Pandit Bhika Raut

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
- 2) Raising s/o Sukhlal Rathod

...RESPONDENTS

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Mr.G.J. Karne Advocate for Applicants.

Mr.K.D. Munde, A.P.P. for Respondent No.1.

Mr.Kailas U. More Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE : 20TH JULY, 2017

ORDER :

1. Heard learned counsel appearing for the

Applicants, learned A.P.P. appearing for State and learned counsel appearing for Respondent No.2.

2. Learned counsel appearing for the Applicants submits that as a matter of fact, Applicant No.1 Vishnu s/o Vithal Gopane was hospitalized since 9th November, 2016 till 11th November, 2016. He invites our attention to the discharge card at Page No.29 of the compilation of the Application and submits that the contents of the discharge card from the civil hospital, Jalna make it abundantly clear that Applicant No.1 was in the hospital from 9th November, 2016 till 11th November, 2016. Therefore, the question of involvement of Applicant No.1 in the alleged offence is completely ruled out. He submits that Applicants along with other card holders were pursuing the legitimate cause to receive the food grain and they complained against the informant to the Collector and therefore to counter-blast the said complaint, the Applicants are falsely implicated and the allegations in the First

Information Report are not true.

3. On the other hand, learned A.P.P. appearing for the State invites our attention to the investigation papers and also the statements of the witnesses who have witnessed the incident and also the injury certificate of the informant showing that he sustained simple injuries in the assault by the Applicants.

4. Learned counsel appearing for Respondent No.2 adopts the arguments advanced by the learned A.P.P. He submits that the Applicants are in the habit of indulging in such activities of filing false complaints and again withdrawing the same. Therefore, he submits that this Court may reject the Application for quashing the First Information Report.

5. We have heard learned counsel appearing for the Applicants, learned A.P.P. appearing for Respondent No.1 and learned counsel appearing for

Respondent No.2. Upon hearing the learned counsel for the parties and upon perusal of the contents in the First Information Report and also the investigation papers and statements of witnesses and injury certificate of the informant collected by the Investigating Officer during the course of investigation, we are of the opinion that prima facie alleged offences are disclosed, which needs further investigation.

6. The contention of the counsel appearing for the Applicants that Applicant No.1 was in the hospital from 9th November, 2016 till 11th November, 2016 is his defence which he can legitimately raised during the trial.

7. For the reasons afore-stated, we are not inclined to entertain this Application for quashing the First Information Report. Hence the Criminal Application stands rejected.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]