

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

910 CRIMINAL APPLICATION NO. 1349 OF 2017

GAFUR KHAN S/O. SAHEB KHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Shri. S.P. Tilve, Advocate, for applicants.

Shri. A.R. Borulkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 13 April 2017

ORDER:

1) The application is filed for the relief of anticipatory bail. Both the sides are heard. Original papers of investigation are produced by the learned Additional Public Prosecutor for perusal.

2) Applicant No.1 has married two wives. Complainant of the present matter Rumshadbee is one wife and Yetemad Hasan is the other wife of applicant No.1. It appears that there is some dispute over a building which was standing in the name of applicant No.1. One

report is filed by Rumshadbee against present applicants on the basis of which CR No.I-34/2017 is registered in Jinsi Police Station Aurangabad for offences punishable under sections 394, 452, 323 etc. of the Indian Penal Code and other report is filed by one Arshad Khan son of the present applicant and CR No. I-33/2017 is registered in the same police station for offences punishable under sections 307, 34 of the Indian Penal Code. Said Arshad Khan is the son of Rumshadbee but he has filed report against his own mother and sisters. Thus the son of Rumshadbee is taking side of the step mother.

3) Allegations are made in the present matter that in the incident dated 7-2-1017 the applicants and others entered the house, they picked up quarrel and during the incident one Shaikh Rafiq Shaikh Daud took away gold ornaments worth Rs.60,000/- and one Irfan Khan took away gold ornaments worth Rs.50,000/- from the person of Nilofer, daughter of the complainant.

4) Learned counsel for the applicants submitted that though two reports are shown to be given on the

same day, there is difference of one hour between two incidents and the report against Rumshadbee was given first in time by the side of the applicants and there is possibility of false implication by Rumshadbee as at the time mentioned in the report by Rumshadbee one of the accused was present in civil hospital for treatment in other case. This circumstance cannot be considered at this stage. Giving of counter report shows that some incident did take place in the house. In view of nature of allegations made against applicant No.1 and applicant No.3 this Court holds that no relief can be granted in their favour. But as no specific role is attributed to applicant Nos.2 and 4 this Court holds that protection needs to be given to them.

5) In the result, the application of applicant Nos.2 and 4 is allowed. Interim relief granted in their favour is hereby confirmed. The application of applicant Nos.1 and 3 stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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