

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

CRIMINAL APPLICATION NO.1523 OF 2017

Vishnu Sahebra Choudhari and others .. Applicants

Versus

The State of Maharashtra and others .. Respondents

Mr.Anup R. Nikam, Advocate for the applicants
Mr.M.M. Nerlikar, APP for the respondent/State

**CORAM : S.S. SHINDE &
S.M. GAVHANE, JJ.
DATED : 11.07.2017**

P.C. :-

. This application is filed with following prayer.

"A. The criminal application may please be allowed.

B. The record and proceeding be called for;

C. By issuing appropriate writ, order, direction the charge sheet bearing No. 57/2016 offence registered u/s. 307,323,504,506,143,147 of IPC by the respondent No.3 Police Inspector, Bori, Tq. Jintor in the Court of Id. J.M.F.C. at Jintur on 04.07.2016 u/s 173 of Cr. P.C. may please be quash and set aside.

D. Pending hearing and final disposal of this Criminal application, the charge sheet

bearing No.57/2016 offence registered u/s 307,323,504,506,143,147 of IPC filed by the respondent No.3 Police Inspector, Bori, Tq. Jintor in the Court of Id. J.M.F.C. at Jintur on 04.07.2016 u/s 173 of Cr. P.C. may please be stayed.

E. Ad-interim relief in terms of prayer clause "D".

F. Any other relief deemed fit may please be granted in favour of the applicant's."

2. Learned counsel appearing for the applicant submits that the B-summary report was filed by the Investigating Officer for approval of the Superintendent of Police, Parbhani and in turn there was direction to Investigating Officer to carry out the further investigation and in particular, about the call records of the mobile phones. However, the Investigating Officer hurriedly proceeded further and instead of complying directions of Superintendent of Police he filed the charge-sheet in the Court. It is submitted that the Investigating Officer should have adhered to the directions issued by the Superior Officer and should have carried the further investigation. His conduct to file the charge-sheet immediately, adversely affected the case of the accused. He further submits that one of the accused is Advocate by the profession. He further submits that, it is evident from the documents placed on record

that, at the relevant time, when the incident had taken place, he participated in the Court proceedings before the Court and therefore, in the aforesaid background the charge-sheet deserves to be quashed. He further submits that applicant No.3 is prosecuting his studies and at the relevant time, he was not present at the spot of incident as alleged in the FIR. He further submits that so far as applicant No.1 is concerned his location was not traced out.

2. The sum and substance of the argument of the learned counsel appearing for the applicants is that the applicants are falsely implicated in the alleged offence and Investigating Officer hurriedly proceeded to file the charge-sheet.

3. Learned APP appearing for the State submits that the investigation is an exclusive domain of the Investigating Officer and it is for him to investigate into the allegations in the FIR and if there is sufficient material to file the charge-sheet. Therefore he submits that this Court may not entertain this application.

4. We have heard counsel appearing for the applicant and APP appearing for the State at length. We

have carefully perused the contents of the FIR/charge-sheet and its accompaniments and also the copies of the other documents placed on record. The Supreme Court in the case of **State of Hariyana Vs Bhajan Lal reported in AIR 1992 SC 604,** has made it clear that, the investigation is an exclusive domain of the Investigating Officer as long as said investigation is in accordance with the law. Therefore, it follows from the said observations that no any other person or the Superior Officer can interfere in the investigation as long as same is in accordance with the law.

3. Therefore, we do not find any substance in the contention of the Learned counsel appearing for the applicants that in spite of directions given by the Superior the Investigating Officer hurriedly proceeded to file the charge-sheet. So far other contention of the learned counsel appearing for the applicants that the applicants were not at the spot of incident at the relevant time and therefore FIR /charge-sheet may be quashed, the same cannot be considered by this Court at this stage. This Court cannot enter into appreciation of the documents and reach to the definite conclusion about presence of the accused at the relevant time and accept the prayer of the applicants to quash the charge-sheet. It may be open for applicants to prove such defence

during the trial. We have carefully perused the charge-sheet and accompaniments, prima-facie it appears that the allegations in the FIR gets support from the medical evidence and other material collected by Investigating Officer. No case is made out for quashing of charge-sheet and hence the application stands rejected. Rejection of this application would not preclude the applicants from applying for discharge. An observations made here in before are prima-facie in nature and confined to the adjudication of the present application only.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]