

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

Criminal Application No. 01925 of 2016

District : Dhule

Shantilal s/o. Manga Chaudhari,
Age : 55 years,
Occupation : Agriculture,
R/o. Songir,
Taluka & District Dhule.

.. Applicant.

versus

1. The State of Maharashtra,
Through Police Station,
Songir, Dhule,
Taluka & District Dhule.
2. Dnyaneshwar s/o. Bhika Chaudhari,
Age : 45 years,
Occupation : Agriculture.
3. Sou. Sangita w/o. Ramkrushna
Chaudhari,
Age : 40 years,
Occupation : Household.
4. Ramkrushna s/o. Bhika Chaudhari,
Age : 47 years,
Occupation : Agriculture.
5. Sanjay s/o. Dhondu Chaudhari,
Age : 40 years,
Occupation : Agriculture.
6. Gopichand s/o. Bhika Chaudhari,
Age : 43 years,
Occupation : Agriculture.
7. Pintu s/o. Gopichand Chaudhari,
Age : 31 years,
Occupation : Agriculture.
8. Sou. Rajubai w/o. Gopichand
Chaudhari,

Age : 38 years,
Occupation : Household.

9. Sou. Vaishali Dnyaneshwar
Chaudhari,
Age : 37 years,
Occupation : Household.

10. Gopal s/o. Dhondu Chaudhari,
Age : 38 years,
Occupation : Agriculture.

11. Pravin s/o. Dhondu Chaudhari,
Age : 35 years,
Occupation : Agriculture.

12. Ashok s/o. Waman Chaudhari,
Age : 42 years,
Occupation : Agriculture.

13. Lotan s/o. Waman Chaudhari,
Age : 39 years,
Occupation : Agriculture.

14. Sunil s/o. Waman Chaudhari,
Age : 35 years,
Occupation : Agriculture.

15. Sou. Thagubai s/o. Dhondu
Chaudhari,
Age : 68 years,
Occupation : Household.

All R/o. Songir,
Taluka & District Dhule. .. Non-applicants.

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Mr. N.L. Choudhari, Advocate, for the applicant.

*Mr. S.J. Salgare, Addl. Public Prosecutor, for
non-applicant no.01.*

*Mr. B.R. Warma, Advocate, for non-applicant
nos.02 to 15.*

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CORAM : T.V. NALAWADE, J.

DATE : 24TH MARCH 2017

ORAL ORDER :

This application is filed by the applicant - original complainant to challenge the common order made by the Judicial Magistrate (F.C.) [Court No.06], Dhule, in Regular Criminal Case No. 564/2011, below Exhibits 49, 50, 52, 55 and 56, on 02.02.2015. The applicant has also challenged the orders dated 21.08.2015 and 23.10.2015, by which the learned Magistrate has accepted the undertaking given by the respondents - accused.

02. Both the sides are heard.

03. Process was issued on 05.03.2013, against as many as 14 accused, for offences punishable under Sections 147, 148, 417, 504, 506, 323, read with Section 149 of the Indian Penal Code, on a private complaint filed by the present petitioner. Application at Exhibit 49 was filed for getting exemption in respect of accused nos.02, 03 and 05 to 14. Application at Exhibit 55 was filed for getting exemption in respect of accused nos. 02, 03 and 06 to 14. After hearing other side, these two applications were allowed

by the Judicial Magistrate (F.C.). Condition was put by the Magistrate, that these accused need to file undertaking to the effect, that (i) they should not dispute their identity as to particular accused in the case, (ii) they have no objection if the evidence will be heard and recording in their absence, and (iii) the advocate of accused will remain present on each and every date during the course of trial on his behalf.

04. It appears that such undertaking was not immediately given by the accused. Most of the accused gave such undertaking when the application Exhibit 61 was filed by the petitioner seeking to issue non-bailable warrant against accused nos.02, 03 and 05 to 14 as they contravened the orders of the Court by not filing the undertaking. It appears that, few accused had not given the undertaking even when present proceedings was filed and after filing of the present proceedings, remaining accused have also filed the undertaking.

05. It is stated in the complaint, that all the accused are relatives of each other. Allegation is made in the complaint, that in order to take revenge against the complainant,

all the accused rushed to the house of the complainant on 03.01.2009 at about 11.00 p.m. to 11.30 p.m. and hurled the complainant in filthy language. They were armed with weapons like thick sticks and iron rod. They asked the complainant as to why he had given complaint about their illegal activities to the superiors. They manhandled the complainant and took away Rs. 1100/- from him. On information given by one Chetan Chaudhary to the Police, Police arrived on the spot. But before that, the accused had left the spot by giving threat of life to the complainant and his family. In the complaint, the complainant has urged that an inquiry be conducted against the accused in respect of the incident and they be severely punished.

06. As many as 14 accused are there in the private complaint against whom process is issued and most of them are ladies and elder persons. As the accused and complainant are relatives of each other, there is no question of disputing their identity. No prejudice is caused to the complainant as the impugned orders are interlocutory in nature. No interference is called for in the impugned orders in exercise of inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

07. At this stage, learned Advocate for the applicant made oral prayer that the trial of the case may be expedited as the accused persons are not co-operating the Court in its expeditious disposal. The said prayer appears to be reasonable one and this Court holds that the trial of the case needs to be expedited.

08. In the result, the Application is dismissed. However, the trial Court is expected to complete the trial of Regular Criminal Case No. 564/2011 as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(T.V. Nalawade)
JUDGE

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