

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

905 CRIMINAL APPLICATION NO. 1916 OF 2017

NITIN LIMBAJIRAO BHANDARE
& ANR.

VERSUS

SWANAND DEELIP BHANDARE & ANR.

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Mr. V.V.Bhavthankar, Advocate for Applicants.

Mr. N.T.Tribhuwan, Advocate for R – 1.

Mr. P.G.Borade, A.P.P. for R – 3 – State.

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CORAM : V.L.ACHLIYA, J.

DATE : 24th AUGUST, 2017

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ORDER :

1. By consent, heard finally at the stage of admission.

2. The applicants herein filed this application u/s 482 of Code of Criminal Procedure seeking quashing of criminal Complaint Case No. 402/2014 pending on the file of Judicial Magistrate First Class, Parali Vaijnath, district Beed for the reasons set out in detail in the application.

3. In nut-shell, it is the contention of the applicants that respondent No. 1 has filed private complaint prosecuting the applicants u/s 323,504 read with section 34 of the Indian penal Code with ulterior motive to harass the applicants on account of on going dispute amongst them relating to the property.

4. Mr. Bhavthankar, learned counsel for the applicants strenuously contended that filing of such complaint and continuation of such proceeding is nothing but gross abuse of process of law. It is pointed out that applicant No. 1 is uncle of respondent No. 1/complainant. Applicant No. 2 is the grandmother of respondent No. 1/complainant. In the year 2014, the complainant filed private complaint as against the applicants and deceased grandmother alleging therein that the accused have abused and assaulted the complainant by means of stick, fists and kicks blows. The complaint in respect of incident dated 06/03/2014 was filed on 07/03/2014 was treated as non cognizable offence by police. On 01/07/2014, the complainant filed private complaint. Vide order dated 07/07/2014 passed by the learned Magistrate, the process was issued. Plea of the accused was recorded on 31/03/2015. Since 07/05/2015, the case has been

repeatedly adjourned for recording evidence of the complainant. During the pendency of the proceeding, original accused No. 1 Limbajirao, the grandfather of the complainant aged 80 years expired. It is pointed out that applicant No. 2/original accused No. 3 is more than 75 years of age. Since 07/05/2015, though the case is pending for the evidence of the complainant in last two years, not a single witness has been examined in the case. The complainant has got adjourned case on one or the other pretext. In this back-ground of the case, the conduct of the complainant and the nature of offence, learned counsel submits that it is a fit case wherein the powers u/s 482 of Code of Criminal Procedure deserves to be exercised to prevent abuse of process of law and harassment to the accused at the instance of the complainant.

5. On the other hand, learned counsel for respondent No. 1/complainant submits that the adjournments which were sought, were not deliberate or with a view to harass the accused. He submits that the complainant is ready and willing to proceed with the matter and he has no objection for expeditious disposal of the case.

6. On due consideration of the submissions advanced, I am of the view that in the facts and circumstances of the case, it is desirable to dispose of the application with direction to the trial Court to decide the case in a time bound manner to meet the ends of justice. I am, therefore, inclined to pass the following order.

ORDER

[i] The parties are directed to appear before the trial Court on 06/09/2017.

[ii] On appearance of the complainant and accused before the trial Court, trial Court is directed to fix the date of recording of evidence of the complainant and his witnesses and conclude the proceeding as expeditiously as possible and preferably on or before 13/10/2017.

[iii] Applicant No. 2 is granted liberty to move application seeking permanent exemption in the matter. Trial Court is directed that in case such application is made, same be considered on its own merit, but considering the nature of offence and age of applicant

No. 2.

[iv] The complainant is directed to co-operate in expeditious disposal of the case.

[v] The application is disposed of in above terms.

[V.L.ACHLIYA, J.]

KNP/Cr.Apln. 1916.2017