

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

6 CRIMINAL APPLICATION NO. 2014 OF 2017

ANITA W/O. GANESH KAKADE AND ANR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. A.R. Kawade
APP for Respondent/State : Mr. R.V. Dasalkar
...

**CORAM : T.V. NALAWADE AND
S.M. GAVHANE, JJ.**

DATED : September 25, 2017.

ORDER :

. The application is filed for quashing of F.I.R. No. 113/2015 registered in Phulambri Police Station, District Aurangabad and also for quashing of chargesheet filed by Phulambri Police in the aforesaid F.I.R. Notice made returnable forthwith. The learned APP waives notice. Heard both the sides for final disposal.

2) The papers of investigation are available and so, the papers were perused by this Court. The crime was registered on the basis of report given by Ramdas Kakade. He had started some proceeding against the accused persons for removal of encroachment made by them and due to that, there is dispute between Ramdas Kakade and accused persons. The incident in question took place on 21.1.2015 in the morning time. According to the first informant, he was present at

his Pan stall and there, his friends like Sahebrao, Ashok were present and one Amol had also come there. After taking tea, when they were sitting together, accused No. 1 Ganesh came with sickle and accused No. 2 Kaka came with iron bar. Allegations are made that three assailants like Dattu, Jaya and Anita also came together to the spot. The present proceeding is filed by females like Jaya and Anita.

3) In the F.I.R., allegations are made that by questioning the first informant about his activity like filing writ petition for removal of encroachment, they started assaulting the first informant. He has contended that they said that they would finish him and after that, the blow of sickle was attempted at his neck. According to him, the sickle hit on his right shoulder and he sustained bleeding injury. According to him, then Kakaji gave blow of tommy, iron bar on his left leg and caused injury. He has made allegations against the present applicants that when he was being assaulted, the present applicants held both his hands and were instigating accused Nos. 1 and 2 to finish him. Specific allegations are made against the present applicants that they also gave him fist blows and kicks.

4) Injury certificate is on the record showing that on the same day, he was examined. One C.L.W. was found on his left shoulder which was caused by sharp weapon and one abrasion was also found

which was also caused by sharp weapon. Though the injuries are described as simple injuries, at this stage, this Court is not expected and observe by considering other circumstances including the defence that there was no intention to finish the first informant. There are statements of aforesaid witnesses in support of the allegations made by the first informant. In view of these circumstances, it cannot be said that there is virtually no material against the present applicants. When the offence is committed by unlawful assembly, the part played by individual member of the unlawful assembly becomes irrelevant and object which was achieved becomes relevant. In the present matter, in view of the facts and circumstances, this Court holds that it is not possible to quash and set aside the F.I.R. and chargesheet. The application is rejected. No need was felt to issue notice to the original complainant.

[S.M. GAVHANE, J.]

[T.V. NALAWADE, J.]

ssc/