

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3055 OF 2017

- 1) Yogesh s/o Angadrao Mane,
Age-36 years, Occu:Service,
- 2) Shailesh @ Umesh s/o Angadrao Mane,
Age-33 years, Occu:Private Service,

Applicant Nos.1 and 2 are:
R/o-Chatrapatinagar, Hingoli,
Tq. & Dist-Hingoli,

- 3) Angadrao s/o Hanumantrao Mane,
Age-65 years, Occu:Agri.,
- 4) Sunanda w/o Angadrao Mane,
Age-60 years, Occu:Pensioner,

Applicant Nos.3 and 4 are:
R/o-Jogala, Tq-Shirur,
Dist-Latur

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station
Hingoli City, Hingoli,
- 2) Angha w/o Yogesh Mane,
Age-34 years, Occu:Service,
Working at Vyankatesh Primary School,
Papvinash Road, Near Balaji Temple,
Latur, Tq & Dist. Latur.

...RESPONDENTS

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Mr.D.M.Shinde, Advocate for Applicants.
Mr.A.R.Borulkar, A.P.P. for Respondent No.1.
Mr.G.J.Hiwrale, Advocate h/f. Mr.S.J.Salunke,
Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
A.M. DHAVALA, JJ.**

DATE : 29TH SEPTEMBER, 2017

ORDER :

1. Heard learned counsel appearing for the Applicants. Relying upon the grounds taken in the Application and contents of the First Information Report, learned counsel submits that allegations in the FIR are inherently improbable. He invites our attention to the medical certificate in respect of Applicant No.4 and submits that she is 75% physically disabled. He further submits that so far Applicant No.3 is concerned, there is no specific allegation against him and it is only stated that he was present at the spot. Therefore, learned counsel appearing for the

Applicants submits that the application deserves to be allowed.

2. On the other hand, learned APP relying upon the allegations in the FIR and investigation papers, submits that during the course of investigation the Investigating Officer has collected sufficient material which lends support / corroborates the allegations made in the FIR. Therefore, he submits that the Application may be rejected.

3. Upon hearing learned counsel appearing for the Applicants and learned APP appearing for the State and upon careful perusal of the allegations in the FIR and investigation papers, so far Applicant Nos.1, 2 and 4 are concerned, *prima facie* alleged offences are disclosed, which needs further investigation. No case is made out to quash the FIR qua Applicant Nos.1, 2 and 4.

4. However, so far Applicant No.3 - Angadrao

s/o. Hanumantrao Mane is concerned, upon careful perusal of the allegations in the FIR, there is no any specific overt-act attributed to him. There is only allegation that he was present at the spot. Learned A.P.P. also fairly states that even during the investigation, there is no specific material collected as against Applicant No.3 - Angadrao s/o. Hanumantrao Mane.

5. For the reasons aforesaid, the Application of Applicant No.1-Yogesh s/o.Angadrao Mane, Applicant No.2 Shailesh @ Umesh s/o. Angadrao Mane and Applicant No.4 - Sunandabai w/o. Angadrao Mane, stands rejected.

6. The Application of Applicant No.3 - Angadrao s/o. Hanumantrao Mane is allowed and to his extent the First Information Report No.193/2017 registered with Hingoli City Police Station for the offences punishable under Sections 307, 494 and 34 of the Indian Penal Code is quashed and set aside.

7. The Application stands disposed of in above terms.

8. It is made clear that the observations made herein above are prima facie in nature and confined to the adjudication of this Application. Rejection of this Application cannot be construed as an impediment to the Applicants from availing of an appropriate remedy as available in law, in the event of filing of charge-sheet by the Investigating Officer.

[A.M. DHAVALA, J.]

asb/SEP17

[S.S. SHINDE, J.]