

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

CRIMINAL APPLICATION NO. 3174 OF 2017

Satish s/o. Ram Sarwade & Ors. .. Applicants

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.S.S. Thombre, Advocate for the applicants.
Mrs.P.V. Diggikar, A.P.P. for respondent/State.

**CORAM : S.S.SHINDE &
S.M.GAVHANE, JJ.**
DATED : 01.08.2017

P.C. :-

1. Heard learned Counsel appearing for the applicants and learned APP appearing for the State. Learned Counsel appearing for the applicants submits that there are general allegations against the applicants. There is no any specific overtact attributed to the applicants. In-fact, the applicants were not present at the spot of occurrence. He submits that since some of the persons, who were involved in the procession have assaulted a Police Officer was no ground to call 200 persons from the vicinity and assault them and falsely implicate in the alleged commission of offence.

2. Learned APP appearing for the State relying upon the investigation papers submits that the allegation in the FIR that one PI Haragbal is assaulted by mob by iron rod is fortified during the course of investigation in as much as injuries sustained by the said officer are brought on record by way of collecting injury certificate. She submits that the informant has also sustained injury. The prosecution witnesses have named the applicants. Therefore, she submits that prayer for quashing the FIR may not be considered.

3. We have carefully considered the allegations in the FIR. The alleged offences are under sections 307, 353 333, 336, 337, 177, 143, 147, 148, 149, 504, 506 of the Indian Penal Code. It prima facie appears that a mob attacked the police officers who were discharging their lawful duty. The contention of the learned Counsel appearing for the applicants that there are general allegations against the applicants is a matter for investigation. As rightly submitted by the learned APP the applicants are named by the prosecution witnesses. When there are allegations which would attract the ingredients of sections 143, 148 and 149 of the Indian Penal Code, in that case if the prosecution brings on record satisfactory evidence against the applicants, in that case every member of the unlawful assembly becomes

equally responsible, if he or she acted in furtherance of common object to be achieved by such unlawful assembly. Therefore, at this stage when the investigation is in progress, it is not desirable to quash the FIR. Hence, the application stands rejected.

4. However, we make it clear that the rejection of this application shall not be construed as an impediment to the applicants to avail of an appropriate remedy, as available in law, at appropriate stage, in the event of filing of charge-sheet by the Investigating Officer. The observations made herein above are prima facie in nature and are confined to the adjudication of present application only.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]