

CRIMINAL APPLICATION NO. 3199 OF 2017

VERSUS

.....
Mr.K.D.Jadhav, advocate for the applicants
Mr.A.R.Borulkar, A.P.P for respondent no.1
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CORAM : K.L.WADANE, J.
DATED : 11th JULY, 2017

O R D E R :

Heard learned counsel for the applicants
and the learned A.P.P. for respondent no.1.

2. The present application is filed under the provisions of Section 438 of the Criminal Procedure Code, in connection with Crime No.93 of 2017, registered with Waluj police station, District Aurangabad on 1.5.2017 for the offences punishable under Sections 307, 504, 323, 143, 148, 149 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled

Tribes (Prevention to Atrocities) Act.

3. One Shiva Mahadu Pawar lodged a complaint to the police station Waluj on 1st May 2017 alleging that on 30.4.2017 when he had gone to the village for Khubse Baba Urus and was returning to home, his son Dinesh informed him on mobile that another accused Bhanudas Divte and his sons set fire to the hut of the complainant and took away the articles from his hut. On such information immediately complainant rushed to his field where his hut was situated and saw that another accused person along with the present applicants were assaulting his wife and sons by means of sticks. When the complainant tried to intervene, accused Bhanudas Divte abused him on the caste on the ground why he filed a Criminal Case against him.

4. On the basis of information given by the informant offence came to be registered against the present applicants and other accused persons at Crime No. 93 of 2017 with Waluj police station for the offences as afore said.

5. The learned counsel appearing for the

applicants points out the earlier complaint filed by one Yogesh Divte, the husband of the applicant no.2, from which it appears that on 17.12.2016 another accused Yogesh Divte lodged a complaint to the Waluj police station stating that on 16.12.2016 at about 3.30 p.m. when he was doing his agricultural work, present complainant Shiva Pawar and other accused persons abused him. Since police have not taken cognizance, Yogesh Divte filed a private complaint against the informant and his family members.

6. Learned counsel further points out the first information report lodged by one of the accused in the present case namely Bhanudas Divte copy of which is at page 20. On perusal of the same, it appears that the another accused Bhanudas Divte had lodged complaint against present informant Shiva Pawar and his family members. Therein he has specifically contended that there was dispute between the informant and the accused on the ground of digging of well and it is further alleged that on 13.4.2017 when the accused

Bhanudas Divte and his family members were present in the field, the informant and his family members abused him and assaulted him with iron rod, axe and sticks.

7. The first information report given by Bhanudas Divte was reported in the police station on 1.6.2017 at about 15 hours, whereas the first information report in the present matter was given by the informant Shiva and it was recorded in the police station at 19 hours. So it appears that due to the incident both the parties have filed counter complaints. Complaint filed by Bhanudas Divte is first in time.

8. From the record it appears that there is civil dispute between the parties with reference to the landed property particularly on digging of the well. With this background and the fact that the allegations against the present applicants are absolutely vague, the only allegation against the present applicants is that they have assaulted the wife and sons of the informant with the help of stick and an omnibus statement is made about

assault by all the accused persons at once. Thus looking to the nature of accusation against the present applicants, their presence for custodian interrogation is not necessary.

9. Hence, Criminal Application is allowed.

In the event of their arrest, the applicants be released on bail, in connection with Crime No.93 of 2017, registered with Waluj police station, District Aurangabad, on furnishing P.R. bond of Rs. 10,000/- with one surety in the like amount.

11. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm