

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

CRIMINAL APPLICATION NO. 3339 OF 2017

Vinayak Khaserao Ransing & Ors. .. Applicants

Versus

The State of Maharashtra & Anr. .. Respondents

Mr.S.D. Tawashikar h/f. Mr. A.S. More, Advocate for the applicants.

Mr.K.D. Munde, A.P.P. for respondent/State.

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

DATED : 13.07.2017

P.C. :-

1. Heard learned Counsel appearing for the applicants. He submits that the allegations in the F.I.R. are inherently improbable. He further submits that some of the applicants are senior citizens and also applicant Nos.2 and 4 are women and therefore their involvement in the alleged offence is completely ruled out. He further submits that even if the allegations made in the F.I.R. are taken as they appear, there are no specific allegations in respect of the applicants. There are general allegations. There is delay of two months in

filing the complaint before the Judicial Magistrate, First Class, and the same has not been explained by the applicants. He submits that there is no verification to the complaint. He further submits that since the applicants have instituted proceedings taking recourse to section 138 of the Negotiable Instruments Act against the complainant, therefore out of vengeance, he filed the complaint. He further submits that though there are statements of four witnesses, recorded by the police supporting an allegation in the F.I.R., those are family members/relatives of the complainant. Therefore, he submits that the application deserves to be allowed.

2. On the other hand, learned A.P.P. appearing for the State invites our attention to the charge-sheet and its accompaniments and submits that there are witnesses, who support the prosecution case. Their statements will have to be tested only during the course of trial and it is not permissible to consider their statements in a summary manner and conclude that the applicants were not

involved in the alleged offence.

3. We have considered the submissions of learned Counsel appearing for the applicants and learned A.P.P. Perused the allegations in the F.I.R., charge-sheet and accompaniments of the charge-sheet. It is true that there is some civil dispute pending between the applicants and the complainants. When there are statements of witnesses supporting the version in the complaint and already charge-sheet is filed by the investigating officer, while exercising jurisdiction under section 482 of the Criminal Procedure Code, it is not desirable to conclude that the statements of the witnesses are false or otherwise and then reach to a definite conclusion. Upon reading the allegations in the F.I.R. and the statements of witnesses, prima facie, the alleged offences have been disclosed and are also supported by the prosecution witnesses. Merely because the witnesses are interested or related, is no ground to conclude that their statements deserves to be rejected outrightly. It is

only when the witnesses are in relation or interested, in that case their evidence needs to be scrutinized more carefully. In that view of the matter, we are unable to persuade ourself to grant any relief to the applicants. Hence, the application stands rejected.

4. The observations made here-in-above are prima facie in nature and confined to the adjudication of the present application only.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]