

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

CRIMINAL APPLICATION NO. 3554 OF 2006

1. Popat Dattatraya Ajbe,
Age 30 years, Occu. Agriculture,
R/o. Karanji, Tq. Ashti, Beed.
2. Raju Arjun Ajbe,
Age 30 years, Occu. Agriculture,
R/o. Karanji, Tq. Ashti, Beed.
3. Bhausahab Mahadev Chodhary,
Age 30 years, Occu. Agriculture,
R/o. Karanji, Tq. Ashti, Beed.
4. Mahadev Babasaheb Chodhary,
Age 30 years, Occu. Agriculture,
R/o. Karanji, Tq. Ashti, Beed.

....Applicants.

Versus

1. State of Maharashtra,
2. Madhukar s/o. Machindra Ajabe,
Age 50 years, Occu. Agri.,
R/o. Karanji, Tq. Ashti, Beed.

....Respondents.

Mr. S.D. Hiwrekar, Advocate for applicants.

Mr. S.J. Salgare, APP for respondent No. 1/State.

CORAM : T.V. NALAWADE, J.

DATED : 13th January, 2017.

ORAL JUDGMENT :

1) The proceeding is filed to challenge the order made by the learned Judicial Magistrate, First Class, Ashti on Exh. 29 in R.C.C. No. 116/2002. Both the sides are heard. The learned APP supported the order made by learned J.M.F.C.

2) Criminal case is filed by police against the present applicants for offences punishable under sections 324, 504, 34 etc. of Indian Penal Code. By filing application at Exh. 29 through prosecutor, complainant had requested the J.M.F.C. to grant permission to produce M.L.C. prepared by the private hospital of Dr. V.N. Deshpande. By production of such document and by giving evidence of that doctor, complainant wants to prove that he was taking treatment for about one month from 3.5.2002 and due to injuries sustained by him, he was indoor patient from that day. He also wants to prove that not only one injury was grievous, but there were two other injuries which were also grievous in nature. The submissions made show that complainant was referred to Government Hospital on 3.5.2002 and M.L.C. was prepared and it shows that seven injuries were found on the person of complainant and out of seven injuries, six injuries were simple, but one injury which was found on left leg was grievous in nature as there was the fracture. As against this record, the M.L.C. prepared by the private hospital shows that there were atleast three injuries which were grievous in nature. One injury found on left leg was described as grievous. The injuries found on head, right parietal region and trauma are also described as grievous injuries by the private hospital. The M.L.C.

prepared by the Government Hospital shows that on those parts of the body also the Government Hospital had noticed the injuries.

3) The learned counsel for present applicants, accused submitted that step like production of record was not taken by police under section 173 (8) of Criminal Procedure Code and so, the J.M.F.C. ought to have rejected the application. This submission is not at all acceptable. The application was made by prosecutor for the State and it needs to be presumed that the State wants to rely on that record. Such collection of record by the State falls under section 173 (8) of Cr.P.C. and as the record is relevant for the matter, the Magistrate could not have refused the permission to produce the document. Thus, no illegality or irregularity is found in the order made by the learned J.M.F.C. and there is no possibility of interference. The proceeding stands dismissed.

Rule is discharged.

[T.V. NALAWADE, J.]

ssc/