

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

Criminal Writ Petition No. 1178 of 2016

- 1) Devidas s/o Dadarao Chakkar,
Age 65 years,
Occupation: Agriculture,
R/o Mandki, Post Palshi,
Taluka & District Aurangabad.
- 2) Bhaurao s/o Dadarao Chakkar,
Age 68 years,
Occupation: Agriculture,
R/o As above.
- 3) Dnyandeo s/o Dadarao Chakkar,
Age 63 years,
Occupation: Agriculture
R/o As above.
- 4) Jagdish s/o Dwarkadas Chakkar,
Age 34 years,
Occupation: Agriculture
R/o As above.
- 5) Parvatibai Dwarkadas Chakkar
Age 62 years,
Occupation: Agriculture
R/o As above.
- 6) Sumanbai Dnyandeo Chakkar,
Age 61 years,
Occupation: Agriculture
R/o As above.
- 7) Nanda w/o Jagdish Chakkar,
Age 26 years,
Occupation: Agriculture
R/o As above.

- 8) Sunitabai Sanjay Chakkar,
Age 21 years,
Occupation: Agriculture
R/o As above.
- 9) Suryakalabai Devidas Chakkar,
Age 62 years,
Occupation: Agriculture
R/o As above.
- 10) Ruchika Krishna Chakkar,
Age 20 years,
Occupation: Agriculture
R/o As above.
- 11) Jayeebai Bhaurao Chakkar,
Age 65 years,
Occupation: Agriculture
R/o As above.
- 12) Kamlabai Bhaurao Chakkar,
Age 66 years,
Occupation: Agriculture
R/o As above.

.. Petitioners.

Versus

- 1) Vinayak s/o Ramrao Chakkar,
Age 40 years,
Occupation: Agriculture
R/o Mandki,
Taluka & District Aurangabad.
- 2) The State of Maharashtra,
Through Incharge Officer,
Police Station, Chikalthana,
Taluka & Dist. Aurangabad.

.. Respondents.

Shri. D.B. Pawar, Advocate, for petitioners.

Shri. K.D. Jadhav, Advocate, for respondent No.1.

Miss. S.S. Raut, Additional Public Prosecutor, for respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 19 JANUARY 2017

ORAL JUDGMENT:

1) Rule, rule made returnable forthwith. Heard both the sides by consent for final disposal.

2) Present proceeding is filed for quashing of the proceeding of Summary Criminal Case No.8171/2013 presently pending in the Court of the Judicial Magistrate First Class Aurangabad. The order of issue process is made by the learned Judicial Magistrate for offences punishable under sections 323, 506 and 34 of the Indian Penal Code as against present petitioners. Learned Additional Sessions Judge has dismissed Criminal Revision Application No.52/2014 which was filed to challenge the order of issue process. Present petitioners are accused Nos.1, 3 to 5 and 9 to 16.

3) Copy of the complaint is on record and it shows that, one criminal case is already pending against some of the accused persons which is filed by police on the basis of report given by the present complainant Vinayak, respondent No.1. Allegations are made in the private complaint that on 23-1-2013 all the accused, 16 in number, came to the field of the complainant and they started asking him to withdraw the case filed against them. Allegations are made that some accused pushed and pulled him and gave slaps to him. It is the contention of the complainant that he said that his share in the property, as property belongs to Bhavaki, was not given to him and so there was the dispute. It is the case of the complainant that all the accused then became angry and started assaulting him by fist blows and kicks. In the complaint names of four witnesses were given and it was contended that they had come to the spot by chance and they witnessed the incident.

4) On the basis of the aforesaid allegations and verification recorded under section 200 of the Code of Criminal Procedure the Magistrate issued process against

the present petitioners. The complaint and the submissions show that report was given to the police but no action was taken by the police in respect of this incident. List of witnesses does not show that the complainant had gone to any doctor after the incident when allegations are made that 16 accused persons had assaulted him.

5) Accused No.9 to 16 are all ladies. Vague allegations are made against them that they had also assaulted him. It is clear that there is dispute over immovable property and there is possibility that to harass all the persons of other side even lady members are made accused in the complaint. There is apparent exaggeration. This Court holds that allowing the proceeding to go on as against accused Nos.9 to 16 will amount to misuse of process of law. Learned Judicial Magistrate has not considered any such aspect of the matter and order of issue process is made against the ladies who are made accused Nos. 9 to 16. This Court holds that the petition needs to be allowed for quashing the proceedings filed against accused Nos.9 to 16. In the result, following order.

6) The petition is allowed in respect of accused Nos.9 to 16. The proceeding filed against these accused stands quashed and set aside. The order of issue process made against these accused also stands quashed and set aside. Rule made absolute in those terms.

Sd/-
(T.V. NALAWADE, J.)

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