

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 615 OF 2013

1. Tulshiram s/o Darmaji Ubale,
Age 60 yrs., Occ. Agri.,
r/o. Sainiknagar, Bhingar,
Tq. and Dist. Ahmednagar.
2. Prabhakar d/o Dharmaji Ubale,
Age 57 yrs., Occ. Agri.,
r/o. Sainiknagar, Bhingar,
Tq. and Dist. Ahmednagar.
3. Usha w/o Tulshiram Ubale,
Age 55 yrs., Occ. Household,
r/o. Sainiknagar, Bhingar,
Tq. and Dist. Ahmednagar.
4. Shobha w/o Prabhakar Ubale,
Age 54 yrs., Occ. Household,
r/o. Sainiknagar, Bhingar,
Tq. and Dist. Ahmednagar.

... **APPLICANTS**
(Ori. Accused)

VERSUS

1. The State of Maharashtra.
2. The Police Station, Incharge
Bhingar Camp Police Station,
Tq. and Dist. Ahmednagar.
3. Natha s/o Vishwanath Ghule,
Age 59 yrs., Occ. Retired Dy.S.P.
r/o. Maka Tq. Newasa, Dist. Ahmednagar.

... **RESPONDENTS**

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Mr. D. R. Markad, Advocate for Applicants.

Mr. M. M. Nerlikar, APP for Respondent No.1.

Mr. N. V. Gaware, Advocate for Respondent No.2.

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CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 19th June, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The proceeding is filed for the relief of quashing of FIR No.18 of 2013, registered with Bhingar Camp Police Station, District Ahmednagar on 17th January, 2013, for the offences punishable under Sections 447, 379, 511 and 506 of the Indian Penal Code.

2 Both the sides are heard.

3 FIR is given by Respondent No.2 and it is in respect of incident dated 14th January, 2013. Respondent No.2 is the owner of 19 Gunthas land in Gat No.294. He has purchased this land under registered sale-deed and his name is also entered in the revenue record. It is his contention that he is in possession of this land and he is cultivating the land personally. The Applicants have land survey No.219 and it is on northern side of the land Gat No.294. It is the

contention of Respondent No.2 that the Applicants are trying to encroach over his land.

4 The allegations are made that on 14th January, 2013 without his permission, all the Applicants entered his field and they started harvesting the Jawar crop standing in his aforesaid land. Though the crop was cut, it was not removed from the field and the Applicants were about to remove it. Respondent No.2 gave report to police. He also informed that to make encroachment over the land, the Applicants were doing such activities and they were giving the threats of filing false case under the provisions of S.C. & S.T. (Prevention of Atrocities) Act, against him. The FIR was given on 17th January, 2013 and the crime was registered for the aforesaid offences.

5 Papers of investigation were produced by the learned APP for perusal. They show that Panchanama was prepared of the field and the Panchanama shows that crop was cut and it was still lying in the field of the first informant. The Panchanama was drawn on 18th January, 2013. There are statements of neighbouring holders in support of the contentions made by the first informant.

6 The learned counsel for Applicants submitted that no offence was committed as nothing was removed from the field of the first informant by the Applicants. The learned counsel took this Court through copy of 7/12 extract of the land Gat No.294 and submitted that many owners are shown in the land and so it cannot be inferred that the portion where the crop was found to be harvested, was belonging to the present Applicants. This submission is not at all acceptable. It is not the case of the Applicants that they are owners of any portion of the land Gat No.294. There are specific allegations of aforesaid nature against Applicants and there is material like Panchanama and statements of witnesses. It cannot be said that there is no material at all against the Applicants. This Court holds that FIR cannot be quashed and police need to decide on the basis of the investigation as to whether charge-sheet needs to be filed. In the result, the proceeding is dismissed. Rule discharged. Interim relief granted by this Court is vacated.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]