

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

CRIMINAL APPLICATION NO. 1485 OF 2014

- 1] Vithal S/o Namaji Garkar,
Age 70 yrs, Occu. Nil,
- 2] Dyandeo s/o Vithal Garkar,
Age 40 yrs, Occu. Agri.,
- 3] Trinbak s/o Vithal Garkar,
Age 50 yrs, Occu. Agri.,

Applicant No.1 to 3 residing at Ankhali,
TQ. Aundha, Dist. Hingoli.

- 4] Pralhad s/o Vithal Garkar,
Age 45 yrs, Occu. Service,
R/o Jintur Tq. Jintur, Dist. Parbhani.

... APPLICANTS

VERSUS

- 1] The State of Maharashtra,
Through its Investigation Officer,
Police Station Aundha,
Dist. Hingoli.
- 2] Marotrao S/o Keshavrao Garkar,
Age 46 yrs, Occu. Agri.,
R/o Ankhali TQ Aundha,
Dist. Hingoli.

... RESPONDENTS

...
Mr. R. J. Nirmal, Advocate for Applicants.
Mr. R. V. Dasalkar, APP for Respondent No.1 / State.
Mr. M. P. Kale, Advocate for Respondent No.2.

...

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

DATE : 23rd July, 2018.

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

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of C.R. No.16 of 2014, registered with Aundha Police Station, District Hingoli, for the offences punishable under Sections 383, 447, 323, 504, 506 read with 34 of the Indian Penal Code.

2 Both the sides are heard.

3 The submissions made and record show that there is dispute of civil nature between the Applicants on one side and Respondent No.2 on the other in respect of agricultural land. The father of first informant has filed civil suit against the Applicants bearing No.52 of 2013 for relief of possession of agricultural land. Allegations are made that due to this dispute, there are quarrels between the two sides and the Applicants are pressurizing the Respondent to withdraw the suit.

4 Allegations are made that on 7th January, 2014 at 02:40

pm, all the Applicants forcibly entered the house of Complainant, they dragged him out of the house, they took away amount of Rs.1500/- and they gave threat of life. It is contended that some villagers rescued him from the Applicants. It is contended that on that day, he approached the police, but the police registered only N.C. case and so, he was required to file private complaint. In private complaint, order of investigation was made by the Judicial Magistrate First Class.

5 The record is produced to show that Applicant No.1 Vithal was aged about 70 years and he was admitted in hospital on 7th January, 2014 and he was discharged on 9th January, 2014. The record like attendance register in respect of Applicant No.4 is produced to show that on 7th January, 2014, he was on duty in the office of APMC, Jintur, District Parbhani. Copy of private complaint produced on record shows that in paragraph 4, one line was added to show that Accused No.1 had said that he was to visit hospital and that is why he was sparing the Complainant otherwise the Complainant was to be finished on that day. Private complaint came to be filed on 27th January, 2014 and order was made by the learned Judicial Magistrate First Class in February 2014 of investigation. These circumstances show that the man, who was admitted in hospital at

other place, who was aged about 70 years, was mentioned as accused person in the incident and he was shown as main accused. Applicant No.4 was also on duty on that day. If the Complainant's father had filed civil case for relief of possession, then there was no reason for the Applicants to force the Complainant side to withdraw the suit, which was filed in the year 2013. There is virtually nothing with the Respondent to corroborate the contention. No injury was sustained by him and vague allegations are made that all the Accused took away Rs.1500/- in that incident. This Court holds that the circumstances are sufficient to infer false implication due to civil dispute and it will be abuse of process of law if the Applicants are asked to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Rule is made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]