

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

CRIMINAL APPLICATION NO. 964 OF 2008

1. Hanmant S/o Deorao Thorat,
Aged 53 yrs, Occu. Agri.,
2. Rajabhau S/o Vithal Bhangе,
Aged 40 yrs, Occu. Agri.,
3. Arjun S/o Bhagwan Bhangе,
Aged 42 yrs, Occu. Agri., & Labour,
4. Balaji S/o Balbhim Thaware,
Aged 45 yrs, Occu. Agri.,
5. Vashishta S/o Tateba Narate,
Aged 30 yrs, Occu. Agri.,
6. Sachin S/o Hanmant Thorat,
Aged 23 yrs, Occu. Education,
7. Vivek S/o Hanmant Thorat,
Aged 21 yrs, Occu. Education,
8. Suresh S/o Pralhad Narate,
Aged 45 yrs, Occu. Agri.,

All R/o. Dautpur, Tq. & Dist. Osmanabad.

... APPLICANTS
(ORIG. ACCUSED)

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
Dhoki Police Station, Tq. & Dist. Osmanabad.

2. Sanjay S/o Vasant Rao Ingale,
Aged 46 yrs., Occu. Agri.,
R/o Anandnagar, Osmanabad,
Tq. & Dist. Osmanabad.

... RESPONDENTS
(ORIG. COMPLAINANT)

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Mr. H. V. Patil, Advocate for Applicants.

Mrs. M. M. Nerlikar, APP for Respondent No.1 / State.

Mr. Prashant Deshmukh, Advocate for Respondent No.2.

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WITH

CRIMINAL APPLICATION NO. 1414 OF 2008

1. Hanumant S/o Devrao Thorat,
Age:- 53 Years, Occu. Agri.,
R/o. Daudpur, Tq. & Dist. Osmanabad.
2. Sachin S/o Hanumant Thorat,
Age:- 23 Years, Occu. Education (M.A) & Agri.,
R/o. As above.
3. Nitin @ Vivek S/o Hanumant Thorat,
Age:- 21 Years, Occu. Education & Agri.,
R/o. As above.
4. Dasarath S/o. Pandari Thavre,
Age:- 45 Years, Occ:- Labour,
R/o. As above.
5. Bhaskar S/o. Pandurang Gadade,
Age:- 40 Years, Occ: Agri.,
R/o. As above.

... APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Police Station,
Dhoki, Tq. & Dist. Osmanabad.

2. Rajendra S/o Vasant Rao Ingale,
Age: 43 years, Occ:- Service,
R/o. Anand Nagar, Osmanabad.
Tq. & Dist. Osmanabad.

... **RESPONDENTS**

...
Mr. S. T. Veer, Advocate for Applicants.
Mrs. M. M. Nerlikar, APP for Respondent No.1 / State.
Mr. Prashant Deshmukh, Advocate for Respondent No.2.

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

DATE : 18th July, 2018.

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

. The first proceeding is filed for the relief of quashing of FIR No.21 of 2008, registered with Dhoki Police Station, District Osmanabad, for the offences punishable under Sections 395, 147, 148, 149, 324, 504 and 427 of the Indian Penal Code. The second proceeding is filed for the relief of quashing of FIR No.30 of 2008, registered with same Police Station for the offences punishable under Sections 447, 379 and 34 of the Indian Penal Code.

2 As the Applicants of both the proceedings are the same and both the crimes came to be registered on the basis of reports given by the persons of same family, this Court is deciding both the

matters together.

3 Record is produced by both the sides and submissions were made on the basis of that record about the dispute, which is pending between Applicants on one hand and the family of first informant on the other hand. The dispute is in respect of agricultural land bearing Gat No.90. It is the case of Applicants that they are tenants of this land and they have been in possession of the land since the year 1956. One Dadarao was the owner of the land and from Dadarao the land was purchased by another person and from that person, the land is purchased by the family of Ingale, Respondent of the two matters. Suit for relief of injunction was filed against Dadarao by the Applicants and decree of injunction was passed against Dadarao. When the Respondent purchased the land, suit was filed against them also, but relief of injunction was refused. Civil matter was taken upto this Court by the Applicants, but they failed to get the relief of injunction against the family of Respondent. The first FIR was given on 6th February, 2008 by the Respondent of first proceeding in respect of incident dated 6th February, 2008. The allegations are made in the said FIR that on that day, when first

informant learnt that the Applicants had entered the disputed land and they were harvesting and taking away the crop, he went there with driver and others. Allegations are made that when he tried to question the act of harvesting of the crop to the Applicants, he and his friends were assaulted and by using force some portion of crop already harvested was taken away by the Applicants in a transport vehicle. Copies of papers of investigation of Crime No.21 of 2008 are produced and they show that injuries were sustained atleast by two persons from the side of Ingale and each one of them had sustained atleast one grievous injury. Copy of spot Panchanama shows that damage was caused to the 4 wheeler and broken pieces of glass were lying there. It also shows that some portion of the crop was harvested and it was not in the field. Thus, the papers of investigation are consistent with the allegations made in the FIR and it cannot be said that false allegations were made in the FIR. There is one more circumstance like giving of FIR in respect of another incident by the Applicants side. Copy of FIR No.22 of 2008 is on record and it shows that on that day, there was a quarrel between these parties and allegations were made by the Applicants that one person from Ingale side had used firearm. Submissions are made that in the sessions

case filed against the members of the family of Ingale, they got decision of acquittal. Copy of the said decision is produced on record. Thus, the Applicants are not disputing that on 6th February, 2008 some incident did take place.

4 In FIR No.30 of 2008, allegations are made in respect of incident dated 6th March, 2008. Allegations are made that the Applicants of second proceeding used force and took away gram crop from the aforesaid disputed land and the Complainant side could not dare to intervene in the incident on that day.

5 The learned counsel for Applicants submitted that the possession of the Applicants over the disputed land was admitted by the Complainant side in the proceeding, which was filed under Ceiling Act and due to such admission given by the Complainant side, the Complainant side had saved some land from the ceiling proceeding. It is submitted that this admission needs to be considered in the present proceeding. Some record is produced in that regard. The submissions made show that a tenancy proceeding was started under Hyderabad Tenancy Act on the basis of order of reference made by the Civil Court. In the said tenancy proceeding, MRT gave decision

that the Applicants side is not tenant in view of the close relationship between the Applicants and the land owner. The relationship was of uncle and nephew. It appears that after the decision of the tenancy proceeding, entries were made in the revenue record in favour of Complainant side and in crop cultivation column, name of Ingale was shown as person cultivating the land. 7/12 extracts are produced on record. Thus, as per the record, on the day of incident, Complainant side was in possession and Complainant side was cultivating the land personally. In view of these circumstances, the submissions made for the Applicants about injunction relief granted in favour of the Applicants in first suit, cannot be used in their favour. This Court is avoiding to go into details of the entitlement of two sides to make claim of possession and various orders made in the aforesaid proceeding. The entry made in revenue record, 7/12 extracts need to be considered at this stage. Thus, it cannot be said that false allegations are made and no offence was committed. On the contrary, the Applicants are claiming that they had cultivated the land and they were taking away the crop. In view of these circumstances, no relief can be granted to the Applicants. In the result, the following order is passed:

ORDER

- I. Both the applications are dismissed.
- II. Interim relief is vacated.
- III. The prayer made for continuation of interim relief is rejected.
- IV. Rule is discharged in both the proceedings.

[K. L. WADANE, J.]**[T. V. NALAWADE, J.]***ndm*