

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

Criminal Application No.834 of 2018

* Raosaheb alias Nilkanth s/o
Limbaji Urade,
Age 50 years, Occu: Agriculture,
R/o Village Dagadgaon,
Taluka Loha, District Nanded. .. **Applicant.**

Versus

- 1) The State of Maharashtra
Through the Officer In charge
Sonkhed Police Station,
Sonkhed, Taluka Loha, District Nanded.
- 2) Ankush s/o Bhagwan Gaikwad,
Age 22 years, Occupation: Private Service,
R/o Village Dagadgaon,
Taluka Loha, District Nanded. .. **Respondents.**

Shri. Govind Kulkarni, Advocate, holding for Shri.
Rajendraraa Deshmukkh, Advocate, for applicant.

Shri. S.J. Salgare, Additional Public Prosecutor, for
respondent No.1.

Shri. N.B. Jadhav, Advocate, for respondent No.2.

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

Date: 04 JULY 2018

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

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

2) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing F.I.R.No.11/2018 registered in Sonkhed Police Station, Tahsil Loha, District Nanded. The crime is registered for offences punishable under sections 325, 363, 149 etc. of Indian Penal Code. The report is given by respondent No.2 Ankush. He has made allegations that on 10-1-2018 at about 1.30 p.m. when he was present in front of his house, Omkar Urade and Dharnidhar came to him. Omkar took him on his motor cycle to the field of one Dharneshwar. It was informed that they were to eat there some snacks and have a party. Allegations are made that after reaching the field, Santosh Urade and Ram Kakade held him and they started assaulting him with kick blows and fists. Allegations are made that subsequently Dharnidhar Urade, Omkar Urade, Shrikant Urade, Tukaram Urade, Santosh Urade, Sakharam Urade and Ram Kakade

assaulted him by using sticks and due to the assault he became unconscious. It is his contention that somebody had informed Raosaheb Urade, present applicant about the incident and due to that Raosaheb Urade had came to the field and Raosaheb Urade had shifted him to Government Hospital, Sonkhed where treatment was given to him. He was discharged by the hospital on 11-1-2018. It is his contention that on 15-1-2018 he felt that he he was suffering from severe pains due to the assault and so he gave report. The report was given on 16-1-2018, after about 6 days of the incident.

3) Some record is produced to show that on 21-1-2018 report was given against first informant and others that they had committed offences punishable under sections 354, 354-A, B etc. of IPC and sections 11 and 12 of the Protection of Children from Sexual Offences Act, (POSCO). The incident described in the said FIR was also of 10-1-2018 and time was given as between 1 p.m. and 2 p.m. Allegations are made in that FIR that on 10-1-2018 the present first informant had gone near the field of Sakharam Urade and he had caught hold the hand of the

victim girl and he had misbehaved with her.

4) The submissions made show that there is possibility that due this incident as against the aforesaid girl some beatings were given to respondent No.2. It appears that in supplementary statement respondent No.2 contended that present applicant had advised the assailants not to give severe beating and to take care that no serious injury is caused to him. It was submitted that this conduct can be taken as instigation and so even when present applicant was not present on the spot at the relevant time, case can be filed against him. This submission is not at all acceptable. In the first disclosure respondent No.2 had informed to police that Raosaheb had helped him by shifting him to the hospital. Subsequently he changed his version and involved the present applicant. As the present applicant was not present on the spot at the relevant time and as there are other aforesaid circumstances this Court holds that relief needs to be given to the applicant. If the prosecution is allowed to go on it will be abuse of process of law.

5) In the result, the application is allowed. Relief is granted in terms of prayer clause (B) and the case filed against the applicant under sections 325, 363, 143, 147,148,149 and also under sections 307, 506, 109 of the Indian Penal Code is quashed and set aside. Rule is made absolute in above terms.

Sd/-
(K.L. WADANE, J.)

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

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