

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

CRIMINAL APPLICATION NO. 1051 OF 2018

Uttam S/o Dattaram Bagal,
Age: 48 years, Occu: Service,
R/o. at post Kakandi, Tq. and
Dist. Nanded.

... APPLICANT
(Orig. Accused)

VERSUS

1. The State of Maharashtra.
2. Madav Balaji Bagal,
Age: 34 years, Occu: Agril,
R/o. Kakandi, Tq. & Dist. Nanded.

... RESPONDENTS

...
Mr. Ashish B. Shinde, Advocate for Applicant.
Mrs. V. S. Choudhari, APP for Respondent No.1.
Mr. S. C. Yeramwar, Advocate for Respondent No.2.
...

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

DATE : 03rd August, 2018.

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

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 The proceeding is filed under Section 482 of the Code of

Criminal Procedure for relief of quashing of FIR No.22 of 2018, registered with Nanded Gramin Police Station, District Nanded, for the offences punishable under Sections 420, 430, 378, 330 and 34 of the Indian Penal Code.

3 The crime is registered on the basis of order made by the learned Judicial Magistrate First Class, Nanded in Criminal Miscellaneous Application No.747 of 2017. The application was filed by Respondent Madav Bagal against the present Applicant.

4 The papers of investigation were made available. Allegations are made that in the incident dated 25th June, 2017, Accused, present Applicant caused damage to the property of Respondent by breaking the wire, pipe, starter etc. of the borewell and motor installed on the borewell. It is contended that the report was given after the incident against the Accused, but police did not take action and so, private complaint was required to be filed before the Judicial Magistrate First Class. It is also contended that the Accused had admitted that he had done it and he had promised to give the compensation and so, action was not taken immediately.

5 The matter went to police on 13th January, 2018 i.e. after about six months of the date of alleged incident. Due to that, there was virtually no scope for the police to collect the material like assessment of damage caused to the articles. Statement of neighbouring land holders were recorded, but they do not support the case of the Respondent.

6 The aforesaid circumstances show that it can be said that the Respondent has suspicion as against the Applicant. Considering the nature of material which will be available before the Trial Court, it can be said that it will be abuse of process of law if the present Applicant is asked to face the trial for the aforesaid offences. Many of the offences cannot be made out in view of the nature of allegations made in the report. 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.]