

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2259 OF 2008

Mohd. Ismail @ Baba s/o.
Mohd. Abdul Kadar Chaudhari,
Age 29 years, Occu. Business,
R/o. Mohella Hafte Biradran,
Tq. Udgir, District Latur.

....Applicant.

Versus

1. The State of Maharashtra
Through - Secretary to the
Home Department, Mantralaya,
Mumbai-32.
2. The Superintendent of Police (Rural),
District Latur.
3. The Police Inspector,
Police Station Udgir (City),
Tq. Udgir, District Latur.
4. Umakant s/o. Shivraj Mutange,
Age 46 years, Occu. Service as Compounder,
Hamid Clinic, (Dr. Baheti Hospital),
Basveshwar Chowk, Railway Station
Road, Udgir, R/o. Udgir, Tq. Udgir,
Dist. Latur.

....Respondents.

Mr. M.S. Choudhari, Advocate for applicant.

Mr. S.D. Ghayal, APP for respondent Nos. 1 to 3.

Mr. S.K. Barlota, Advocate for respondent No. 4.

**CORAM : T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.**

DATED : 19/09/2018.

JUDGMENT : [PER T.V. NALAWADE, J.]

- 1) The proceeding is filed for relief of quashing of F.I.R. No. 76/2008 registered with Udgir City Police Station, District Latur for

offences punishable under sections 452, 323, 34 ect. of Indian Penal Code. Both the sides are heard.

2) The F.I.R. is given by respondent No. 4 Umakant. At the relevant time, he was working as compounder in the hospital of Dr. Baheti, who will be witness in the case. It appears that one girl of Muslim community was initially admitted in the hospital of Dr. Rahat and then she was referred to the hospital of Dr. Baheti. Her condition was serious and she died on the day of incident i.e. on 25.6.2008. After the death of girl, her relatives became angry and applicant Baba Chaudhari was amongst them.

3) Allegations are made that applicant, his brother and cousins all of a sudden started assaulting Dr. Baheti, Amol Baheti and the first informant (compounder). They entered the hospital and they forcefully tried to enter the residential place of doctor. To avoid their entry in the house, the compounder and Amol Baheti took the persons to downstairs to convince them, but there, present applicant and three others assaulted compounder and Amol by using fist blows and kicks. The incident took place at about 10.15 a.m. of 25.6.2008 and report came to be given on 26.6.2008 at about 9.00 a.m.

4) The learned counsel for applicant submitted that the applicant and others relatives of deceased had suspicion that proper

care of the deceased was not taken and due to negligence of doctor, the girl died. The learned counsel submitted that on 25.8.2008 the application was given to police after the death of girl to make inquiry, but no action was taken by police. It was submitted that only as a counter blast, the report was given against the applicant and others by the compounder on the next day.

5) The submissions made shows that Criminal Writ Petition No. 655/2008 was filed in respect of death of said girl. Submission was made for the State that Investigating Officer was required to take permission of Medical Council of India as per the guidelines given by the Supreme Court in one case and after that the investigating agency will take the further steps. Though there is such record, it can be said that, that is different matter and law will take its own course in that matter also. In the present matter, there are allegations against the applicant and others that they assaulted the compounder and Amol Baheti after the death of the girl. It cannot be said that there is no material at all as against the present applicant. In view of these circumstances, this Court holds that no relief can be granted to the applicant. The application is dismissed. Rule is discharged.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

SSC/

Salim
Shafi
Choudhari

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by Salim Shafi
Choudhari
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