

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

CRIMINAL WRIT PETITION NO. 660 OF 2017

- 1] Vishnuprakash Shrinivas Totla,
Age: 65 Years, Occu: Business,
- 2] Vishal Vishnuprakash Totla,
Age: 37 Years, Occu: Business,
Both R/o: Opposite Jijamata Uddyan,
Near Tower Chowk, Tq: Parli Vaijinath,
Dist: Beed.
- 3] Kalyan Anandrao Gite,
Age: 25 Years, Occu: Labour,
R/o. Chandapur, Tq: Parli Vaijinath,
Dist: Beed.
- 4] Hanumant Narayan Devkate,
Age: 32 Years, Occu: Labour,
R/o. Kasarwadi, Tq: Parli Vaijinath,
Dist: Beed.
- 5] Pappu Khajamiya Shaikh,
Age: 25 Years, Occu: Labour,
R/o. Mirvat Tanda, Tq: Parli Vaijinath,
Dist: Beed.

... PETITIONERS

VERSUS

- 1] State of Maharashtra,
Through Investigating Officer,
City Police Station, Parli Vaijinath,
Dist: Beed.
- 2] Satish Marutirao Shinde,
Age: 31 Years, Occu: Business,
R/o. Ganeshpar, Tq: Parli Vaijinath,
Dist: Beed.

... RESPONDENTS

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Mr. P. V. Barde, Advocate for Petitioners.

Mr. R. V. Dasalkar, APP for Respondent No.1 / State.

Mr. G. J. Kore, h/f Mr. Umakant P. Giri, Advocate for Respondent No.2.

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

DATE : 19th November, 2018.

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

. The proceeding is filed for relief of quashing of FIR No.196 of 2017, registered with City Police Station, Parli Vaijinath, District Beed on 25th April, 2017, for the offences punishable under Sections 143, 379, 427 etc. of the Indian Penal Code and Section 3(1) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Both the sides are heard.

3 The crime is registered on the basis of report given by Respondent No.2, who is a tenant of the Petitioners. He has made

allegations that the present Petitioners are trying to evict him from the rented premises illegally. He has made allegations that on 24th April, 2017, he closed the shop at 10:30 pm and on the night between 24th April, 2017 and 25th April, 2017, one Balaji Jalbaji Gaikwad informed on phone that the present Petitioners and others had entered the shop of first informant illegally and they were causing damage to his furniture and other articles. He rushed to the spot. There he could meet Balaji Gaikwad and his brother Shankar Gaikwad and they informed that the present Petitioners and their associates had caused damage to the property and they had taken away T.V. set box and vacuum cleaner and they had given abuses also by taking the name of caste of Gaikwad, which is scheduled caste. Report was given to police on 25th April, 2017 and the crime is registered for the aforesaid offences. This Court has seen the spot *Panchanama* and it is consistent with the aforesaid allegations. Police papers show that there is statement of other witness, who can be called as independent witness like Faisal, who had seen the incident and his statement shows that he had seen the aforesaid Gaikwad on the spot at the time of incident.

4 The learned counsel for Petitioners submitted that aforesaid Gaikwad, who allegedly had supplied information to the first informant, was also a tenant in one shop and this Court in Civil Revision Application No.906 of 1995 had given decree of eviction on 6th October, 2005. He submitted that the owners, Petitioners had filed proceeding for recovery of arrears of rent and the Petitioners were following due process of law. He submitted that even the proceeding for eviction is filed and there was no reason for the Petitioners to take such step.

5 There is a record to show that this Court had allowed the revision filed against Gaikwad and the decision of eviction was given in favour of the present Petitioners. Only due to these circumstances, at this stage, it cannot be inferred that Gaikwad had given false information to the first informant. Further, there will be material like evidence of other witnesses and there is spot *Panchanama*, which is consistent with the allegations. In view of the specific allegations made against the Petitioners and the material collected by Police, this Court holds that no relief can be given in favour of present Petitioners. In the result, the following order is passed:

ORDER

- I. The petition is dismissed.
- II. Interim relief is vacated.
- III. Rule is discharged.

[SMT. VIBHA KANKANWADI, J.]**[T. V. NALAWADE, J.]***ndm*