

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

CRIMINAL APPLICATION NO. 3455 OF 2007

1. Mubarak s/o. Ajarali Tawar,
Age 42 years, Occu. Cultivator
and Social Worker,
R/o. Sawali, Tashil Arni,
District Yavatmal.
2. Pralhad s/o. Tukaram Gawande,
Age 55 years, Occu. Cultivator,
R/o. Umri, Tahsil Arni,
District Yavatmal.
3. Pralhad s/o. Dajiba Jagtap,
Age 65 years, Occu. Cultivator
and Social Service,
R/o. Datodi, Tahsil Arni,
District Yavatmal.

....Applicants.

Versus

1. The State of Maharashtra
2. Kishor Eknathrao Kawalkar,
Age 45 years, Occu. Service,
Presently Engineer,
Lowerpainganga Project Division,
Yavatmal Dist. Yavatmal,
R/o. Bhind Date College,
Irrigation Colony, Yavatmal.

....Respondents.

Mr. Sachin Deshmukh, Advocate for applicants.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. S.G. Sangle, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JULY 5, 2018.**

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

1) The proceeding is filed under section 482 of Criminal Procedure Code (hereinafter referred to as 'Cr.P.C.' for short) for relief of quashing of F.I.R. No. 22/2007 registered in Mandvi Police Station, Tahsil Kinwat, District Nanded for the offences punishable under sections 307, 395, 120-B, 353, 149 etc. of Indian Penal Code (hereinafter referred to as 'IPC' for short) and sections 3, 4, 5, 7 of the Prevention of Damage to Public Property Act, 1984. Both the sides are heard.

2) The F.I.R. was given by Executive Engineer of Irrigation Department. One project called as Lower Painganga Project was approved by the State Government for Ambala Shivar and measurements were to be taken for this project on 12.7.2007. In anticipation, the officers of the Irrigation Department had paid the charges for taking police to the spot and so, police force was also present.

3) On the date of incident when the first informant, Superintending Engineer Pise and other staff of Irrigation Department and the employees of land record were present for measurement and police officers like Pawar, Chavan, were also present there, at about 1.00 p.m. a mob of three to four thousand

came towards them and the mob was shouting. Out of this mob, 200 to 300 persons came ahead with sticks and they started assaulting the officers of Irrigation Department and all others who were present on the spot for taking the measurement. Attempt was made on the life of Pise, who was main officer of Irrigation Department by pressing his neck. Police Officers tried to intervene, but they were also assaulted. Allegations are made that the persons from the mob took away the valuables which were on the person of officers of Irrigation Department like ornaments, wrist watches, mobile hand sets and cash amount. The particulars are given by the first informant and others of these articles.

4) In the F.I.R., the names of persons, who were leading the mob and who had attacked the officers are given and they are Pralhad Patil, Pralhad Jagtap, Sachin Gawande, Sanjay Thakare and others. They are said to be office bearers. The name of Mubarak Tawar was also given as Vice President of Samiti formed to oppose the aforesaid project. Most of the officers were injured in the incident. This mob caused damage to the vehicles of the department and vehicles of others. Numbers of vehicles which include matador, other four wheelers and two wheelers are given in the police papers. Thus, the allegations are made against the present applicants that they made an attempt on the life of the officers and mainly on the

life of Pise and they took away the valuables of all the officers after attacking them and thereby committed the aforesaid offences. It was submitted that the person, who had gathered there, were brought in separate vehicles and that shows that the incident was preplanned.

5) The learned counsel for the applicants produced a photograph and submitted that the office bearers were trying to control the mob. This submission is not acceptable atleast at this stage as the photograph shows that presence is not disputed by the applicants. The spot panchanama speaks volume about the gravity of the incident. Many vehicles were damaged and the parts of the damaged vehicles and other things were lying in scattered condition. The officers were virtually dragged for some distance and the assault took place at many places. There are statements of officers of Irrigation Department including that of Pise and other statements show that the names of applicants are given by the injured witnesses and other witnesses. Independent witnesses are also there. Injury certificates of more than 15 persons are produced and each one sustained many injuries in the incident. Thus, it cannot be said that false allegations are made against the present applicants. Such incidents cannot be taken lightly. The agitation of this nature also cannot be tolerated. In view of the aforesaid circumstances, this

Court holds that no relief can be granted to the applicants. The application stands dismissed. Interim relief is vacated. Rule is discharged.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

SSC/