

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1836 OF 2018

- 1] Mangesh S/o Ramesh Pandure
Age : 33 Years, Occ. Service,
 - 2] Dinesh S/o Ramesh Pandure,
Age : 31 Years, Occ. Doctor
 - 3] Yogesh S/o Ramesh Pandure
Age : 35 Years, Occ. Service,
 - 4] Ramesh S/o Chandrakant Pandure
Age : 61 Years, Occ. Business
 - 5] Umesh S/o Chandrakant Pandure,
Age : 53 Years, Occ. Doctor
- All R/o. Garute lane, Newasa,
Tq. Newasa, Dist. Ahmednagar
- 6] Babasaheb S/o Rajendra Kundhare,
Age : 25 Years, Occ. Business,
R/o. Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar

..APPLICANTS

VERSUS

- 1] The State of Maharashtra
- 2] Gokul Bansilal Mehere
Age : 58 Years, Occ. Service,
R/o. Sharda Nagar, Kopargaon
Tq. Kopargaon, Dist. Ahmednagar

..RESPONDENTS

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Advocate for Applicant : Mr. A. S. Gandhi

APP for Respondents: Mr. D. S. Jape

Advocate for respondent no. 2 : Mr. A.A.Falagaw

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CORAM :T.V. NALWADE AND
SMT.VIBHA KANKANWADI,JJ.
DATE :28th SEPTEMBER, 2018.

JUDGMENT(Per T.V. NALWADE, 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 the relief of quashing of FIR No. 85/2018 registered with Kopargaon Police Station, District Ahmednagar for the offences punishable under Sections 341, 143, 147, 149, 323, 452, 504, 506 of Indian Penal Code and Section 37(1) (3) 135 of Maharashtra Police Act.

3] The crime is registered on the basis of report given by respondent no.2 Gokul Mehere. The report was given on 07.05.2018 in respect of specific incident which took place on the night between 05.05.2018 and 06.05.2018. Daughter of Gokul is given in the marriage to applicant no.1. The applicant nos. 2 and 3 are real brothers of the applicant no.1 and the applicant no.4 is father of the applicant no.1. Applicant no.5 is uncle of the applicant no.1 and applicant no.6 is driver of the family of applicant no.1.

4] The allegations are made that on that night at about 11.30 p.m when Gokul his wife Sushila and his son Rohit were at home all the accused came there in India Car bearing No. MH-17- 1000 and they had come with wooden logs for using them as weapons. The allegations are made that they knocked the door severely and then they entered into the house and assaulted Rohit with kicks blows. The allegations are made that they assaulted Gokul also with fists and kicks blows and they gave threat of life. The allegations are made in that incident they broke the shields of door and windows of the house and caused damage to the property. The allegations is made that there was demand of Rs.2,00,000/- from the parents of the wife of applicant no.1 and as demand was not met they had become angry.

5] The learned counsel for the applicants drew the attention of this Court to the report which was treated as non cognizable offence by the police. This report shows that it was given on 06.05.2018 in respect of incident which took place on the night between 05.05.2018 and 06.05.2018 in the house of Shardanagar, Kopargaon, where the alleged incident mentioned in the FIR No. 85/2018 took place. In that report the wife had informed to the police that her husband, brother-in-law and parents of the husband had become angry as without their permission she had given the amount of Rs. 50,000/- to her brother Rohit. She had made allegations that they had given threats and abuses

and they had given beating to her.

6] The aforesaid circumstances shows that in the same incident the daughter of Gokul had already approached police but report was treated as non cognizable case. Gokul then gave report on 07.05.2018 and as he made other allegations, the FIR came to be registered for the aforesaid offences. In the report given by the wife she had made allegations against five persons who are all the family members of the father of the husband. The allegations made by Gokul are also very vague. On one hand he contended that accused had brought with them wooden logs and on the other hand he made allegations that he and his son were assaulted by fists blows and kicks. It can be said that subsequently on 29.05.2018 the provision of Section 452 of the Indian Penal Code was added and then due to that also the crime became cognizable in nature. Some record is produced by the applicant to show that the wife had transferred Rs. 50,000/- in the account of Rohit. Thus the allegations of the demand of Rs. 2,00,000/- (Rupees Two Lakh) are not apparently true. Due to all these and considering the occupation and the age of applicant no.5, this Court holds that there is possibility of exaggeration. So this Court holds that the relief needs to be granted to applicant nos. 5 and 6 only and it cannot be granted to applicant nos. 1 to 4. In the result, the application of applicant nos. 5 and 6 is allowed. The application of applicant nos. 1 to 4 is dismissed.

Rule made absolute in the aforesaid terms in favour of applicant nos. 5 and 6.

[SMT.VIBHA KANKANWADI]
JUDGE

[T.V. NALAWADE]
JUDGE

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