

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

**CRIMINAL APPLICATION NO. 3659 OF 2015**

- 1] Subhash Sudhakar Shirsath,  
Age: 53 Years, Occ: Agriculturist,
- 2] Shrikant Ashok Shirsath,  
Age : 40 Years, Occ : Agriculturist,
- 3] Swapnil Subhash Shirsath,  
Age: 35 Years, Occ: Agriculturist,
- 4] Digamber Karbhari Shirsath,  
Age: 50 Years, Occ: Agriculturist,

All R/o.: Kolhar (Kd), Taluka: Rahuri,  
District: Ahmednagar.

**... APPLICANTS**

**VERSUS**

- 1] The State of Maharashtra,  
Through Police Inspector,  
Rahiri Police Station,  
Tal. Rahiri, Dist: Ahmednagar.
- 2] Sau. Pushpa Rajendra Lokhande,  
Age: 40 Years, Occupation: Household,  
R/o.: Kolhar (Bk), Taluka, Rahata,  
District: Ahmednagar.

**... RESPONDENTS**

(Resp. No.2 Org. Complainant)

...  
Mr. S. T. Shelke, h/f Mr. S. V. Suryawanshi, Advocate for Applicants.  
Mr. M. M. Nerlikar, APP for Respondent No.1.  
...

WITH**CRIMINAL APPLICATION NO. 3661 OF 2015**

- 1] Dhananjay Changdeo Shirsath,  
Age: 49 Years, Occ: Agriculturist,
- 2] Digambar Karbhari Shirsath,  
Age : 50 Years, Occ : Agriculturist,
- 3] Rajjak Kadar Shaikh,  
Age: 45 Years, Occ: Agriculturist,

All R/o.: Kolhar (Kd), Taluka: Rahuri,  
District: Ahmednagar.

**... APPLICANTS**

**VERSUS**

- 1] The State of Maharashtra,  
Through Police Inspector,  
Rahuri Police Station,  
Tal. Rahuri, Dist: Ahmednagar.
- 2] Sau. Laxmi Raosaheb Pathade,  
Age: 35 Years, Occupation: Household,  
R/o.: Kolhar (Bk), Taluka, Rahata,  
District: Ahmednagar.

**... RESPONDENTS**

(Resp. No.2 Org. Complainant)

...

Mr. S. T. Shelke, h/f Mr. S. V. Suryawanshi, Advocate for Applicants.  
Mr. S. J. Salgare, APP for Respondent No.1.

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

**DATE : 11<sup>th</sup> June, 2018.**

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

. Rule. Rule made returnable forthwith. Heard both the sides by consent for final disposal.

2 Both the proceedings are filed under Section 482 of the Code of Criminal Procedure. In proceeding No.3659 of 2015, the relief of quashing of FIR No.206 of 2015 registered in Rahuri Police Station on 4<sup>th</sup> June, 2015 for the offences punishable under Sections 143, 147, 149, 354, 427, 323, 504 and 506 of the Indian Penal Code and for the offence punishable under Section 3(1)(x)(xi) of the S.C. and S.T. (Prevention of Atrocities) Act, 1989 is claimed. In proceeding No.3661 of 2015, the relief of quashing of FIR No.207 of 2015 in the same police station on 4<sup>th</sup> June, 2015 for the similar offence is claimed. Though there are two different crime numbers and two separate proceedings are filed, in view of nature of material available and the dates of the incident, this Court has felt it necessary to decide both these proceedings by a common judgment.

3 In proceeding No.3659 of 2015, there is a dispute between the first informant and the Applicants over the land Gat

No.134 situated at Kolhar (K), Taluka Rahuri, District Ahmednagar. In the second proceeding, the Applicants have dispute with the informant over the land Gat No.223 situated in the same village. In first proceeding, the time of incident is mentioned as 12:00 noon on 3<sup>rd</sup> June, 2015 and in the second proceeding, the time of incident is mentioned as 01:00 pm on 3<sup>rd</sup> June, 2015. Both the reports are given by ladies and they have made allegations of misbehaviour with them and crime was registered for the offence punishable under Section 354 of the Indian Penal Code also against all the Applicants.

4           It is the case of first informants in both the matters that when they were present in the disputed field alongwith other witnesses, the Applicants came there, they gave them abuses by taking the name of the caste, which is scheduled caste, they touched their persons, misbehaved with them and they pushed and pulled them. Allegations are made that simple injuries were sustained by them and there was an attempt to dispossess them. In both the FIRs, it is mentioned that in addition to the Applicants there were 7 to 8 unknown persons with them.

5           The submissions made and the record show that in the past also, similar allegations were made against the Applicants by the families of the Complainants in the year 2015. The family of first informant of first proceeding (husband of first informant namely Rajendra) had filed private complaint and he had made allegations that on 9<sup>th</sup> April, 2015, the Applicants and the officers of revenue department had tried to dispossess them from the land. The complaint was filed in Rahuri Court on that occasion. Similarly, private complaint was filed by Raosaheb Pathade, husband of first informant of second proceeding, which was given number as 210 of 2015 by Judicial Magistrate First Class, Rahuri and in that private complaint also incident dated 9<sup>th</sup> April, 2015 was mentioned and allegations were made that attempt was made by the Applicants and revenue officers to dispossess them. Thus, there is a dispute of similar nature between the first informants, their families on one side and the Applicants on the other i.e. in respect of the possession over the agricultural lands mentioned above.

6           Copies of various orders made by the revenue authority and this Court in writ petitions are produced on record. They show

that in the past, the aforesaid lands were declared as surplus lands in the Ceiling Act and they were taken over by the Government. After that, the lands were allotted to the persons like the families of first informants. The proceedings were started by the previous land holders against taking over of the lands and they had contended that choice was not given to them to keep the particular portion of land. Those proceedings were filed prior to 1989 and even the writ petitions were filed. Orders were made in favour of the land owners. Choice was given to them to keep the land of their choice and hand over the other land, which would be surplus. Accordingly, in the year 1996, the aforesaid lands were again given to the Applicants of two proceedings by the revenue authority and the possession was taken from the persons to whom the lands were allotted. Copy of the mutation is produce on record to that effect, which is bearing No.5306 of village Kolhar (K). Copies of the orders made by this Court and the revenue authority show that all the while the Applicants are contending that they are in possession and the persons to whom the lands were allotted in the past, are disturbing their possession by making encroachment. As there was dispute and the allegation was made that the first informants were making encroachment and there were

also orders of High Court in the writ petition, more orders were made in the year 2009 by revenue authority and direction was given to remove the encroachment made by the persons to whom land was allotted in the past and hand over the possession to the previous owners. Accordingly, the notices were issued after 2009 and even police protection orders were made in March 2015. All these orders and aforesaid circumstances show that the families of first informants are trying to prevent the Applicants from cultivating the lands though there are orders of the revenue authority and the High Court and the orders have become final in aforesaid regard. The aforesaid circumstances are sufficient to infer that only with ulterior motive the families of the first informants are taking such steps and such steps are only pressure tactics. This is nothing but abuse of process of law. This Court holds that the relief claimed in both the proceedings need to be given. In the result, the following order is passed:

### **ORDER**

- I. Criminal Application No.3659 of 2015 is allowed.

The relief is granted in terms of prayer clause (B).

II. Criminal Application No.3661 of 2015 is allowed.

The relief is granted in terms of prayer clause (B).

III. Rule made absolute in those terms.

**[ K. L. WADANE, J. ]**

**[ T. V. NALAWADE, J. ]**

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