

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

CRIMINAL WRIT PETITION NO. 756 OF 2007

1. Dattatraya s/o Vishnu Thorat,
Age 70 years, Occ. Agriculture,
2. Jagannath s/o Vishnu Thorat,
Age 62 years, Occ. Agriculture.
3. Suresh s/o Jagannath Thorat,
Age 33 years, Occ. Agriculture.
4. Subhash s/o Jagannath Thorat,
Age 29 years, Occ. Agriculture.
5. Chandrakant s/o Dattatraya Thorat,
Age 32 years, Occ. Agriculture.
6. Ramesh s/o Dattatraya Thorat,
Age 32 years, Occ. Agriculture.
7. Rajendra s/o Nanasaheb Dighe,
Age 32 years, Occ. Agriculture.
8. Akshay s/o Ganpat Dighe,
Age 20 years, Occ. Agriculture.
9. Changdev s/o Bhivaji Khemnar,
Age 32 years, Occ. Agriculture.

All R/o Jorawa, Tq. Sangamner, Dist.
Ahmednagar.

... **Petitioners**
(Ori. accused)

VERSUS

1. The State of Maharashtra,
2. The Police Inspector,

Sangamner Taluka Police Station
Sangamner, Tq. Sangamner,
Dist. Ahmednagar.

... **Respondents**

...

Advocate for Petitioners : Mr. V. R. Dhorde.
APP for respondents /State : Mr. S.G. Salgare.

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

DATE : 4th July, 2018.

JUDGMENT (PER K.L. WADANE, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties, this petition is taken up for final disposal.
2. This writ petition is filed by the petitioners under the provisions of section 482 of the Code of Criminal Procedure for relief of quashing of first information report No. I-368/2007, registered with Sangamner Taluka police station, District Ahmednagar, for the offences punishable under section 346, 279, 337, 143, 147 of the Indian Penal Code.
3. One Sharad Narayan Thorat r/o. Jorwa, lodged a complaint to the Sangamner Taluka police station alleging that on 28.11.2007 an election programme of Sarpanch and Deputy Sarpanch of the village was declared. It is further alleged that four elected members of Swabhimani Mandal were abducted. The election process was started at 11 a.m., still they were not traced. However they came at about 1.30 p.m. at the place of voting by a

private vehicle. The complainant requested the driver of the said vehicle to stop the vehicle beyond the control line. However, the driver of the vehicle did not listen and drove the vehicle due to which some persons were injured. On the basis of the information given by the complainant initially the offence came to be registered against the driver of the vehicle and others for the offences punishable under section 346, 279, 337, 143, 147 of the Indian Penal Code.

4. We have heard the arguments of Mr. V.R. Dhorde, learned counsel for the petitioners and Mr. Salgare, learned APP for the respondents/State.

5. Mr. Dhorde, learned counsel, during the course of his arguments submits that there was Grampanchayat election of village Jorwa Tq. Sangamner on 07.10.2007. Its results were declared on 09.10.2007. Six members of Shetkari Vikas Mandal were elected and six members of Swabhimani Mandal were elected and one opposition member was elected who supported Shetkari Vikas Mandal. He further submits that the applicants are supporters of Shetkari Vikas Mandal. He further submits that the election of Sarpanch and Deputy Sarpanch were to be held on 28.11.2007, therefore four members were brought in the vehicle. As soon as the four members along with four police constables and driver of the jeep reached near the meeting point, the supporters of Swabhimani Mandal stopped the

vehicle in the way and tried to pull out the said members from the jeep. It is further submitted that there was also stone pelting on the jeep and one police official was seriously injured. For the aforesaid incident first information report bearing No. 367/2007 was registered on 28.11.2007 at about 7.15 p.m.

6. Mr. Dhorde, learned counsel, further submits that one Sharad Thorat filed a complaint with Sangamner Taluka police station on 29.11.2007, on the basis of which offence at Crime No. 368/2007 was initially registered against the other accused persons. On 05.12.2007 supporters of Swabhiman Mandal made a representation to the Sub-Divisional Officer of Sangamner and made Dharna on Nashik-Pune road. On 10.12.2007 an application was made by the police official before the Learned Judicial Magistrate First Class, Sangamner, in which first time the name of present petitioners are included, in the first information report.

7. From the record it appears that there was a dispute between two political groups in respect of the voting to the post of Sarpanch and Deputy Sarpanch and at the time of voting the four elected members were reached there. There was some altercation between the two political groups, by which the first information report bearing No. 367/2007 was registered against the rival group of the present petitioners, which was time in first. On second day the informant Sharad Thorat lodged complaint against the driver. However,

subsequently the group of complainant mounted pressure on the police by going on strike and holding Dharana on the public road.

8. Further it appears from the record that subsequently on 10.12.2007 the application was made to the Judicial Magistrate First Class, to add the present petitioners as accused in the said crime and accordingly they are added. Thus, basically, it appears from the record that there is political rivalry between two groups in the village. Learned APP has produced the report submitted by the police inspector of Sangamner Taluka police station which is taken on record and marked as 'X' for the purpose of identification. On perusal of the same it appears that the complaint of complainant Sharad Thorat was thoroughly investigated and the investigating officer came to the conclusion that no offence was committed as alleged by the complainant Sharad Thoard, who lodged the first information report bearing Crime No. 368/2007.

9. In view of the clear cut opinion of the investigating officer and the fact that the incident took place between two rival political groups and further the names of the present petitioners are added in the crime after about three weeks from the date of incident, the first information report No. 368/2007 appears to be false and politically motivated. In such circumstances, the continuation of the criminal proceeding against the present

petitioners is nothing but an abuse of process, therefore it needs to be quashed and set aside. Hence, following order is passed.

ORDER

1. Writ Petition is allowed.
2. Relief is granted in terms of prayer clause 'B'.
10. Rule is made absolute in above terms.
11. Criminal Writ Petition is disposed of.

(K. L. WADANE, J.)

(T.V.NALAWADE, J.)

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