

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

CRIMINAL APPLICATION NO. 5146 OF 2014

1] Sham Dwarkadas Mundada,
Age 37 Years, Occu. Business,
R/o. Mondha, Sonpeth,
Taluka Sonpeth, District Parbhani.

2] Balaprasad Dwarkadas Mundada,
Age 47 Years, Occu. Business,
R/o. Mondha, Sonpeth,
Taluka Sonpeth, District Parbhani.

... APPLICANTS

VERSUS

1] The State of Maharashtra,
Through Parli [Rural] Police Station,
District Beed.

2] Sharad Nagorao Gitte,
Age 30 Years, Occu. Service [Driver],
R/o. Pangari Camp, Taluka Parli,
District Beed.

... RESPONDENTS

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Mr. Santosh S. Jadhavar, Advocate for Applicants.

Mrs. V. S. Choudhari, APP for Respondent No.1 / State.

Mr. H. P. Randhir, Advocate for Respondent No.2 (Appointed).

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

DATE : 08th August, 2018.

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

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.102 of 2014, registered with Parli (Rural) Police Station, District Beed, for the offences punishable under Sections 324, 452, 323, 504 and 506 read with 34 of the Indian Penal Code.

2 Both the sides are heard.

3 The report is given by Respondent, Sharad Gitte. He was working as a driver and one witness named in the FIR is his real brother and other witnesses are the neighbours. On 17th July, 2014, he had gone to the field as per the instructions given by one Rajkumar Karad for ploughing the land. He had done that work along with Arjun Botre on 17th July, 2014 till 07:00 pm.

4 Incident in question took place on 18th July, 2014 in the house of the first informant. He has made allegations that when he was taking meals, Accused persons came in Scorpio vehicle to his house, they started shouting and they entered his house. They

questioned him as to why he had done agricultural operation in the aforesaid field and then they assaulted him by using sticks. It is the allegations that they are attempting to take him to unknown destination by kidnapping him and when he started shouting, the witnesses named in the FIR rushed to his house and after that the Accused left his house. He felt that there was an attempt on his life. He attempted to give report at about 09:00 pm on 18th July, 2014, but the report was not accepted and so, he filed private complaint. In the private complaint, order of investigation was made by the learned Judicial Magistrate First Class under Section 156(3) of the Code of Criminal Procedure and on that basis crime at C.R. No.102 of 2014 is registered in Parli (Rural) Police Station.

5 The learned counsel for Applicants submitted that prior to the registration of Crime No.102 of 2014 dated 8th August, 2014, report was given on 19th July, 2014 by Applicant No.1 Sham and on that basis the crime at C.R. No.97 of 2014 was registered for the offences punishable under Sections 447, 427, 34 etc. of the Indian Penal Code. Copy of the said FIR is produced. Allegations are made that there was standing crop of Soybean in the field of the Applicants

and that was damaged by moving rotor and tractor in the field. The date of incident was given as 19th July, 2014.

6 The learned counsel for Applicants submitted that there is a sale-deed in respect of the disputed land in favour of the present Applicants, but there was only agreement of sale in favour of Rajkumar for whom the first informant of C.R. No.202 of 2014 was working and so it cannot be said that Rajkumar had right to plough the land or to use rotor in the land. Copy of 7/12 extract is produced to show that vendor of the Applicant was shown in 7/12 extract.

7 It can be said that two crimes are registered out of the dispute. Unfortunately, neither side had gone to Civil Court and both of them are using criminal law. In the present matter, there are specific allegations against the Applicants and there are statements of witnesses, who are neighbours of the first informant in support of his contentions. There was house trespass and there was assault. In view of these circumstances, it cannot be said that there is no material at all against the present Applicants. No relief can be granted in favour of the Applicants. In the result, the following order is passed:

ORDER

- I. The application is dismissed.
- II. Interim relief, if any, is vacated.
- III. Rule is discharged.
- IV. The fees of the appointed counsel is quantified as Rs.3,000/- to be paid from the funds of High Court Legal Services Authority.

[K. L. WADANE, J.]**[T. V. NALAWADE, J.]***ndm*