

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

**CRIMINAL APPLICATION NO. 3001 OF 2018**

1. Arjun S/o Sahebrao Wagh,  
Age- 61 years, Occ- Agri and Social Work,
  2. Tushar S/o Arjun Wagh,  
Age- 28 years, Occu- Agril,
  3. Balbhim S/o Sahebrao Wagh,  
Age- 58 years, Occu- Service,
  4. Ananda S/o Shivaji Wagh,  
Age- 38 years, Occu- Agril,
  5. Bandu @ Amol Achutrao Wagh,  
Age- 30 years, Occu- Sopcial work & Agril,
  6. Suresh S/o Vishwanath Wagh,  
Age- 45 years, Occu- Agril & Bussiness.  
All R/o. Jawkhede Kh,  
Tal- Pathardi, Dist. Ahmednagar
- ...APPLICANTS.**

**Versus**

1. The State of Maharashtra,  
Through Police Station Officer,  
Shevgoan Police Station, Tal- Shevgaon,  
Dist. Ahmednagar.
  2. Narayan S/o Nabaji Matkar  
Age: 30 yrs. Occu. Agril.  
R/o. Papy Gall, Chitale Road,  
Dist. Ahmednagar.
- ....RESPONDENTS.**

Mr. Rajendra S. Kasar, Advocate for applicants.

Mr. A.A. Jagtkar, APP for Respondent No.1/State.

Mr. Nikhil Ghanwat, Advocate for Respondent No.2.

**CORAM :T.V. NALAWADE AND  
SMT. VIBHA KANKANWADI, JJ.  
DATED : 20/12/2018.**

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

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of C.R. No. 78/2015 registered with Shevgaon Police Station, Tahsil Shevgaon, District Ahmednagar for offences punishable under sections 143, 324, 504, 506 of Indian Penal Code and also for the relief of quashing of the case filed in the crime bearing S.C.C. No. 628/2017, pending in the Court of Judicial Magistrate, First Class.

3. The report was given by respondent No. 2 Narayan Matkar. He has contended that on 3.4.2015 in the evening at 6.00 p.m. when he had gone to Wagholi field, he learnt that police had called him. According to him, when he started returning towards Ahmednagar and he was standing near tamarind tree, applicant Suresh Wagh came there and started assaulting him with fist blows and kicks. Other applicants also came there and they started assaulting him and started giving him abuses. He has made allegations that Arjun Wagh asked him to remove the shed constructed by him in the field which was sold by him to one Sunil

Virkar. He has contended that he was forcibly taken to the field and he was compelled to remove the shed and then he was compelled to set fire to the articles used for construction of shed by him. According to him, persons like Pandurang, Amol etc. rescued him. He gave report on 4.4.2015 and the crime came to be registered.

4. The submissions made and the record show that land Gat No. 194/1 admeasuring 46 R. from Wagholi was sold by first informant to persons like Bapusaheb Gavte and Sunil Virkar under registered sale deed dated 17.5.2012. Under sale deed dated 29.10.2014 the purchasers of the first sale deed had sold this land to Tushar Arjun Wagh, son of applicant No.1. There is copy of order of temporary injunction made by the learned Civil Judge, Junior Division, Shevgaon in favour of Tushar in R.C.S.No. 68/2015 and first informant is defendant in the said suit and temporary injunction was granted to prevent the first informant from causing obstruction in the possession of plaintiff over the said property. This order was made on 13.5.2015 and F.I.R. was given on 4.4.2015. In any case, the record of sale deed shows that the property was already sold by the first informant in the year 2012 and he had apparently no concern with the said property. The contents of the F.I.R. do not show that he had knowledge about the subsequent sale deed when the property was sold in the year 2012, he gave report on 4.4.2015.

Injury certificate shows that only blunt trauma was found on his person when he was examined on 4.4.2015. In view of the aforesaid civil dispute and the fact that the property was not belonging to the first informant, this Court holds that it will be abuse of process of law, if the applicants are made to face the trial for aforesaid offences on the basis of report given by the first informant, who has already sold the property. In the result, following order is made.

**O R D E R**

- (I) The application is allowed.
- (II) Relief is granted in terms of prayer clause 'B'.
- (III) Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/