

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3053 OF 2018

- 1) Atul s/o Ankushrao Kakde,
Age 28 years, Occupation Agril.,
R/o Jaisingnagar, Gangapur,
Tq. Gangapur Dist. Aurangabad.
- 2) Pramod s/o Machindra Kharad,
Age 37 years, Occupation Agril.,
R/o Anandpur Tq. Paithan
Dist. Aurangabad.
- 3) Rajendra s/o Ramrao Kharad,
Age 41 years, Occupation Agril.,
R/o Anandpur Tq. Paithan
Dist. Aurangabad.
- 4) Achut s/o Vitthalrao Auti,
Age 34 years, Occupation Agril.,
R/o Apegaon Tq. Paithan
Dist. Aurangabad.
- 5) Amol s/o Machindra Kharad,
Age 29 years, Occupation Agril.,
R/o Anandpur Tq. Paithan
Dist. Aurangabad.

...Applicants

Versus

- 1) The State of Maharashtra,
Through The Investigation Officer,
In Crime No. 170 / 2016 registered
with Police Station at MIDC, Paithan
Dist. Aurangabad.
- 2) Ravindra s/o Tukaram Shinde,
Age 40 years, Occupation Assistant
Police Inspector, MIDC Police Station
Paithan, Tq. Paithan Dist. Aurangabad.

...Respondents

Mr. Bodkhe Patil Umesh, Advocate for applicants.
Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondents/
State.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 14-12-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. Rule. Rule made returnable forthwith. By consent, heard finally.
2. Present application has been filed by the original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure to quash and set aside the First Information Report vide Crime No. 170 of 2016, dated 12-07-2016, registered with MIDC, Paithan Police Station District Aurangabad for the offence punishable under Section 143, 145, 149, 353 of Indian Penal Code and Section 135 of Bombay Police Act.
3. Respondent No.2 is serving as Assistant Police Inspector with said MIDC Police Station at Paithan. He lodged a report contending that, he was on duty along with other police personnel at about 11.00 a.m. on 12-07-2016 in connection with the election for the post of Chairman of Shri Sant Eknath Sakhar Karkhana At MIDC Paithan. The said election was organized in the hall of the sugar

factory between 11.00 a.m. to 14.00 hours. When the election process was still going on, some persons had gathered at a distance of the main gate of the factory which were in favour of elected candidates. The said mob was calm. However around 13.30 hours suddenly 20 to 25 persons came in mob towards the main gate. The mob was headed by president of Annadata Shetkari Sanghatana and Appasaheb Pandhare, Dnyaneshwar Mule, Subhash Adhav, Atul Kakade, Amol Kharat, Pramod Kharat, Raju Kharat, Sukhdev Bhalekar, Shaikh Hamid, Achut Aute, Ashok Kakade, Kishor Daspute and ten to twelve unknown persons were along with said president. Some of them had tide black stripe around their arms and they were shouting slogans that, 'old pending bills of farmers and outstanding salaries of the labours should be immediately given.' The informant and other police persons made appeal to the said mob that, they should keep peace and they can agitate their demands in peaceful manner. Their assembly is unlawful and therefore they should disburse from that place. Even Assistant Superintendent of Police, Paithan Division, also made request to the mob, however the mob continued its act of shouting slogans and after sometime the said mob get merged in the people who had gathered. Since the election process was going on no immediate complaint was filed, however it is stated that by forming an unlawful assembly the mob including the present applicants have violated the orders passed by Collector,

Aurangabad. Hence, the report was lodged.

4. The applicants have contended that, they are innocent and have been falsely implicated. The contents of the FIR are vague. Taking the allegations in the FIR as it is, no offence is transpired, and therefore, continuation of the FIR is nothing but an abuse of process of law, and therefore they have prayed for quashment of the FIR.

5. Heard learned advocate Mr. Umesh Bodkhe Patil for applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar for respondents – State. Perused the FIR and police papers made available.

6. At the out set it can be seen that, as per the contents of the FIR itself, already some persons had gathered in connection with the election process. According to the informant, they were the representatives of the elected candidates. Intentionally how many persons were present at the gate, who were so called representatives of the elected candidates, has not been stated. Informant says that, suddenly the applicants and others came shouting slogans. They have only given slogans and no other overt act is stated to have been committed by them. Even if for the sake of arguments it is accepted that there was some order of Collector prohibiting assembly of persons, yet how it can be implemented against only applicants is a question because already many persons

had gathered who are stated to be the representatives of the elected candidates. Under such circumstance the bare perusal of the FIR does not attract ingredients of any offence. Hence, it would be a futile exercise to ask the applicants to face the trial. Case is made out to exercise the powers of this Court under Section 482 of Code of Criminal Procedure, hence following order.

ORDER

- 1) Application is allowed.
- 2) Relief is granted in terms of prayer Clause "B".
- 3) Rule is made absolute in those terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.