

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1498 OF 2018

1. Ramkisan S/o Ranu Amte,
Age : 48 Years, Occ. Agriculture,
R/o. Khande Pargaon,
Tq. & Dist. Beed
 2. Parubai W/o Ramkisan Amte,
Age : 45 Years Occu. Agriculture,
R/o. Khande Pargaon,
Tq. And Dist. Beed
- ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through Police Station Pimpalner,
Tq. & Dist. Beed
 2. Mukund S/o Dilip Amte,
Age : 28 Years, Occu. Agriculture,
R/o. Khande Pargaon,
Tq. & Dist. Beed
- ..RESPONDENTS

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Advocate for Petitioners : Mr. K. R. Doke and S. K. Doke
APP for Respondent No.1: Mr. S. J. Salgare
Advocate for respondent No.2 : S.R. Shirsat

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CORAM :T.V. NALAWADE AND
SMT.VIBHA KANKANWADI,JJ.
DATE : 19th DECEMBER, 2018.

ORAL JUDGMENT [PER T.V. NALAWADE J] :-

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

2. The proceeding is filed for relief of quashing of proceeding of

Regular Criminal Case No. 485 of 2017, presently pending in the Court of learned Judicial Magistrate, (F.C.) Beed. The case is filed by the police for the offences punishable under Sections 324, 326, 323, 504 read with Section 34 of the Indian Penal Code.

3. This Court has carefully gone through the allegations made in the FIR and the statements recorded by police of witnesses. The FIR was given by respondent no.2 Deelip Amte. There is some land dispute between applicant No.1 Ramkisan and the family of first informant in respect of land Gut No. 165. First informant is contending that as he has share in the land Gut property No. 165. Allegations are made that on 16.07.2017, when he and his wife were present in their land, at about 6.00 p.m. Ramkishan came with his wife Parubai and two sons and they picked up quarrel. Allegations are made that Ramkisan used Axe against him and in the incident he was held by the applicant No.2 Parubai and her two sons and due to that Ramkishan could give a blow of Axe on the head of the first informant. Allegations are made that applicant No.2 and her sons assaulted the wife of first informant and when Dilip, father of the first informant came there he was also assaulted by the applicants and their sons.

4. The submissions made and the record show that in respect of the civil dispute suit was filed by the Ramkishan against Bhagwan, Mohan Rajaram and Ramnarayan Aamte for the relief of injunction in the year 1986, in respect of land gut No. 165. Relief of permanent injunction

came to be granted by the decision dated 29.08.1991. Record is produced to show that even after giving of the decree which was never stayed the first informant and his family members were obstructing the applicant from enjoying the property. It appears that applications were made to police and other authorities.

5. On the other hand, the learned counsel for the first informant submitted that, first informant and his father were not party respondent to the aforesaid suit and they have filed suit in the year 2016 in respect of land Gut No. 165 and interim relief is granted in their favour. Copy of order passed by the learned Civil Judge, Senior Division, granting interim/temporary injunction is produced and it shows that Ramkishan and others are prevented from transferring the property. However, no relief is granted to allow the first informant or his father to enjoy the property.

6. The papers of the investigation show that the first informant and his father sustained injuries, which include one incise wound sustained by the first informant. They together sustained four injuries. Father of first informant sustained blunt injury and first informant sustained one incise wound and one abrasion. Though there are statements of the wife and father of the first informant, the allegations do not show that the wife of Ramkishan, applicant No.2 had assaulted the informant to cause aforesaid injuries. Ramkishan applicant No.1 had assaulted the applicant to cause aforesaid injuries. It does not look probable that a

lady assaulted male person. At this stage, it is not possible to give relief to applicant No.1 as the injuries are sustained but due to aforesaid record and the papers of the investigation, this Court holds relief can be given in favour of the applicant no.2.

7. When this Court expressed that this Court is not inclined to grant the relief in favour applicant No.1 the learned counsel submitted that he is withdrawing the application of applicant No.1. In the result following order :-

ORDER

1. Proceeding of petitioner No.1 is disposed of as withdrawn.
2. Petition of petitioner No.2 is allowed.
3. Relief is granted to petitioner No.2 Parubai W/o Ramkisan Amte in terms of prayer clause (B).
4. Rule made absolute in those terms.

**[SMT.VIBHA KANKANWADI]
JUDGE**

**[T.V. NALAWADE]
JUDGE**

YSK/