

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

CRIMINAL APPLICATION NO.6437 OF 2016

Ramhari Dnyaneshwar Jadhav,
Age: 28 Years, Occu. Agirculture,
R/o Turkabad Kharadi, Tq. Gangapur,
Dist. Aurangabad.

... **Applicant**

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Police Station, Waluj, Dist. Aurangabad.

2. Raju S/o Rustam Pawar
Age 40 Years, Occu. Agril,
R/o Kankori, Tq. Gangapur,
Dist. Aurangabad.

... **Respondents.**

**WITH
CRIMINAL APPLICATION NO.6296 OF 2016**

Santosh S/o Damodhar Argade
Age 28 Years, Occu. Agril,
R/o Dhangar Galli, Waluj,
Tq. Gangapur, Dist. Aurangabad.

... **Applicant**

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Police Station, Waluj, Dist. Aurangabad.

2. Raju S/o Rustam Pawar
Age 40 Years, Occu. Agril,
R/o Kankori, Tq. Gangapur,
Dist. Aurangabad.

... **Respondents.**

WITH
CRIMINAL APPLICATION NO.6301 OF 2016

Ashok S/o Damodhar Argade
Age 25 Years, Occu.Agril,
R/o Dhangar Galli, Waluj,
Tq.Gangapur, Dist.Aurangabad.

... **Applicant**

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Police Station, Waluj, Dist.Aurangabad.

2. Raju S/o Rustam Pawar
Age 40 Years, Occu.Agril,
R/o Kankori, Tq.Gangapur,
Dist.Aurangabad.

... **Respondents.**

Mr. Kiran D. Jadhav, Advocate for the applicants.
Mr.R. V. Dasalkar, APP for the applicant State

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

DATE: : 6th August, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the applications are taken up for final hearing.

2. The applicants in the aforesaid applications have challenged the first information report bearing Crime No. 203/2016 registered with Waluj Police Station, Dist. Aurangabad for the offence punishable under Section 304, 379 r/w 34 of the Indian Penal Code and prayed for quashing the same.

By way of amendment, the applicants have also challenged the consequent charge sheet No.161/2016 and criminal proceedings bearing SC No. 21/2017 pending before the Sessions Court, Vaijapur.

3. On 18.08.2016, respondent No.2/original complainant lodged complaint with the Police station alleging that early in the morning, at about 7.30 a.m., he received a phone call from one Mr. Gawali, informing him that his brother Balu Pawar and cousin brother Somnith Pawar were injured in the motor vehicle accident and lying in unconscious condition near Thumsup Chowk Waluj. Complainant immediately rushed to the spot of incident, where one truck bearing MH06 AQ 363 was standing and motorcycle MH20 AV 2470 was lying on the spot. His brother and cousin brother died due to accidental injuries. On enquiry he came to know that the truck was belonging to applicant Santosh Argade. The applicants Ashok Argade and Ramhari Jadhav were dealing in the business of transporting of sand. It is alleged that they were doing the activities of theft of sand and carrying it illegally. On the basis of first information report, the offence as referred above came to be registered against accused/applicants for the offence punishable under section 304, 379 r/w 34 IPC.

4. Heard Mr. Jadhav, learned counsel for the applicants and Mr. Dasalkar, learned APP for the respondent State. Perused the papers of

investigation.

5. It appears from the papers of investigation that vehicle/truck involved in the accident was owned by the applicant Santosh. Copy of registration certificate is collected during the investigation. Further it appears that the applicants Ashok and Ramhari were doing the business of transportation of sand and at the relevant time accident, one Punjaram Bhandare was driver of the vehicle.

6. Looking to the allegations made in the first information report and from the statements of witnesses, it appears that offence of rash and negligent driving and causing death of the aforesaid two persons by negligence is registered against the driver of the vehicle. However, it is very surprising to note that that the applicants, transporter of sand and owner of the vehicle are made accused of the offence of rash and negligence driving of the vehicle and causing death of the injured persons. At any stretch of imagination, it cannot be said that the applicants are responsible for causing death of the above two persons due to rash and negligent driving of the vehicle. Driver is already made accused. Looking to the allegations made in the entire charge-sheet, the applicants are unnecessarily arrayed as accused in the aforesaid crime. In fact, the applicants have no connection with the rash and negligent driving of vehicle by driver Mr. Bhandare.

7. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised to the extent of the present applicants. Hence following order:

O R D E R

- i. Applications are hereby allowed.
- ii. First information report bearing Crime No. 203/2016 registered with Waluj Police Station, Dist. Aurangabad so also the Charge sheet No.161/2016 and criminal proceedings bearing SC No. 21/2017 pending before the Sessions Court, Vaijapur arising out of Crime No. 203/2016 are quashed and set aside to the extent of present applicants.
- iii. Rule is made absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC