

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

CRIMINAL APPLICATION NO. 6997 OF 2017

1. Shaikh Jamaloddin Nurmohammad
Tamboli, Age 46 years,
2. Mohsin Karim Tamboli,
Age 32 years,
3. Sameer Samad Tamboli,
Age 26 years,
4. Azim Karim Tamboli,
Age 39 years,

All Occu. Business, R/o. Shahagad,
Tq. Ambad, Dist. Jalna.

....Applicants.

Versus

1. The State of Maharashtra
Through Police Station Gondi,
Dist. Jalna.
2. Iliyas Ibrahim Qureshi,
Age 50 years, Occu. Business,
R/o. Shahagad, Tq. Ambad,
Dist. Jalna.

....Respondents.

Mr. H.M. Shaikh, Advocate for applicants.

Mrs. D.S. Jape, APP for respondent No. 1/State.

Mr. G.R. Syed & Mr. Imtiyaz Pathan, Advocates for respondent No.2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 07/12/2018.**

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 F.I.R. No. 380/2017 registered with Gondi Police Station, District Jalna for offences punishable under section 363, 364, 307, 34 etc. of Indian Penal Code. Both the sides are heard.

3) During arguments, when this Court expressed that this Court is not inclined to grant relief to applicant Nos. 2 to 4, the learned counsel for applicants on instruction submitted that he wants to withdraw their proceeding and so their application needs to be disposed of as withdrawn.

4) F.I.R is given by respondent No. 2 Illiyas. Incident in question took place on 6.12.2017 at Shahagad. When the first informant was present near Kashmir Cloth Center, according to him, applicant Mohsin Tamboli came there and he started assaulting the first informant. It is contended that applicant no. 3 son of Samad Tamboli also came there and both of them forcibly took the first applicant in Mahindra XUV. In this vehicle Azim, applicant No. 4 was on driver's seat. Allegations are made that on the way applicants Jamaloddin and Mohsin tried to finish him by using muffler and by strangulating him. It is contended that one police vehicle followed them and Mahindra vehicle was intercepted and due to that his life

was saved.

5) In view of the nature of allegations made in the F.I.R., this Court had directed to see that the record of investigation, inquiry made by the police officer is shown to this Court. That record was made available and that record shows that after interception of vehicle, they had seen Azim Tamboli and first informant in the vehicle. Thus, they did not take the names of other applicants. If record of investigation containing statements of eye witnesses who are mentioned in the F.I.R. is considered, that record shows that they had seen applicant Nos. 2 to 4, though they had not seen applicant no. 1. In view of these circumstances, this Court holds that relief can be granted in favour of applicant No. 1, but not in favour of applicant Nos. 2 to 4 and further, there is no convincing medical evidence in support of the allegations and on the contrary, there is record of hospitalization of applicant No. 1 showing that on the day of incident, he was receiving treatment in Government Hospital. So, the application of applicant No. 1 is allowed. Relief is granted to him in terms of prayer clause B. Application of other applicants is disposed of as withdrawn. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/