

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

CRIMINAL APPLICATION NO. 578 OF 2019

1. Laxman s/o. Bhagwan Ijalkar,
Age 39 years, Occu. Business,
R/o. Baradshewala, Tq. Hadgaon,
Dist. Nanded.
2. Govind s/o. Prabhu Ijalkar,
Age 42 years, Occu. Agril.,
R/o. As above.
3. Prabhu s/o. Apparao Ijalkar,
Age 80 years, Occu. Nil.,
R/o. As above.
4. Deoka @ Manisha w/o. Laxman Ijalkar,
Age 30 years, Occu. Household,
R/o. As above.

....Petitioners.

Versus

1. The State of Maharashtra
Through Police Station Officer,
Police Station, Manatha,
Tq. Hadgaon, Dist. Nanded.
2. Dattatraya s/o. Pandurang Anantwar,
Age 53 years, Occu. Agril.,
R/o. Kavvana, Tq. Hadgaon, Dist.
Nanded.

....Respondents.

Mr. Shrikishan S. Shinde, Advocate for petitioners.
Mr. M.M. Nerlikar, APP for respondent No. 1/State.
Mr. A.A. Mukhedkar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
MANGESH S. PATIL, JJ.
DATED : 30/04/2019.**

ORAL 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 for relief of quashing of F.I.R. No. 13/2019 registered with Mantha Police Station, Tahsil Hadgaon, District Nanded for offences punishable under sections 307 r/w. 34 of Indian Penal Code and R.C.C. No. 159/2018 filed in the said F.I.R. The crime is registered on the basis of direction given in private complaint filed by present respondent No. 2 Dattatraya Anantwar. In a private complaint, he has contended that in incident dated 12.11.2018 at about 9.30 to 10.00 p.m. in the property of complainant, the present petitioners, accused attempted to finish the complainant by pouring kerosene on his person and then by throwing burning matchstick at him. He has contended that during incident he was held by accused Nos. 1 and 2, accused No. 3 had poured kerosene on his person and accused No. 4 had threw a burning matchstick at him. It is contended that his clothes got fired and when he shouted others like Latabai and Suresh rushed there and after that all the four accused ran away. He was taken to Sub Divisional Government Hospital for treatment.

3) It is the contention of complainant that when police started making inquiry and he gave the report, police called the side of the accused and asked them to give report for offences

punishable under section 354 of IPC against him. It is contended that after getting such report, the police asked him to settle the dispute with other side and due to that he gave signatures on some record. It is contended that as no action was taken in respect of the aforesaid incident, he was required to file private complaint.

4) The record shows that after receipt of the complaint, J.M.F.C. first directed police to submit status report in respect of the so called statements of the complainant recorded in the hospital. In report dated 26.12.2018 police informed that when they reached the hospital, no statement was recorded, though he had informed that the accused had attempted to set fire to him. It is contended in the report that the first informant had promised to come to police station to give report, but he did not turn up to give the report. It is informed in the report that subsequently the other side gave report against the complainant and both of them gave statements that they would settle the dispute. It is contended that as the complaints given by both the sides were withdrawn, no further action was taken and no crime was registered.

5) After considering the aforesaid report by police dated 26.12.2018 the J.M.F.C. gave direction to register the crime on the basis of private complaint which was filed in the Court. A copy of

station diary entry is produced on record showing that on 13.11.2018 both the sides had approached police and had informed that they had settled the dispute. They had informed that the real dispute was in respect of immovable property, plot and they would get it settled through Court.

6) In police papers, there are some statements showing that there was some incident of quarrel and when they reached to the spot, the complainant informed that there was attempt on his life. The statements show that there was some fire to his shirt and there was smell of kerosene. However, it is not disputed that no injury as such was sustained by the complainant and there was only smell of kerosene when he was taken to hospital.

7) There is record of dispute in respect of immovable property. There is allegation of complainant that some bogus record was made in Village Panchayat and on that basis, transfer of his property was made. In any case, the dispute is in respect of some immovable property. There is material of aforesaid nature and the statements given on the next day show that no attempt was there on the life of complainant and some quarrel had taken place. In view of these circumstances, this Court holds that it will be abuse of process of law if the petitioners are directed to face the trial if the

case is filed against them. In the result, the petition is allowed.

Relief is granted to the petitioners in terms of prayer clause 'B'.

Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

SSC/