

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.534 OF 2019

- 1) Vinayak Khaserao Ransing,
Age-70 years, Occu:Business,
R/o-Malhar Chowk, Station Road,
Ahmednagar,
- 2) Amol Vinayak Ransing,
Age-34 years, Occu:Business,
R/o-As Above,
- 3) Kiran Vinayak Ransing,
Age-38 years, Occu:Business,
R/o-Om Sai Tractors,
Near Dhood Pandhari, Kedgaon
Solapur-Pune Highway,
Solapur.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Kotwali Police Station,
Taluka & Dist-Ahmednagar,
- 2) Nayan Raju Kamble,
Age-26 years, Occu:Driver,
R/o-Behind Ambika Hotel,
Harijan Vasti, Kedgaon,
Tq. & Dist-Ahmednagar.

...RESPONDENTS

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Mr.Abhijit S. More Advocate for Petitioners.

Mr.R.D. Sanap, A.P.P. for Respondent No.1.

Mr.N.B. Narwade Advocate for Respondent No.2.

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**CORAM: T.V. NALAWADE AND
K.K. SONAWANE, JJ.**

DATE : 11TH JULY, 2019

JUDGMENT [PER T.V. NALAWADE, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsels appearing for the parties.

2. The Petition is filed for the relief of quashing of the First Information Report No.305 of 2019, registered with Kotwali Police Station, Ahmednagar for the offences punishable under Section 323, 395, 504, 506 of the Indian Penal Code and under Section 25/4 of the Arms Act and under Section 3(1)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The crime is registered on the basis of report given by one Nayan Raju Kamble. He is working as a driver with Laxman Khaserao Ransing, real brother of Petitioner No.1. Petitioner Nos.2 and 3 are sons of Petitioner No.1. Allegations are made in the First Information Report that on 21st February, 2019, Laxman had directed the informant to take some goods to godown and keep the goods in the godown. It is contended that in pick-up vehicle the informant took the goods to godown which was situated below the tractor show-room and when he was keeping the goods there, present Petitioners and other 5-6 persons came there and picked up quarrel and they gave abuses to him by taking the name of his caste, which is Scheduled Caste and then he was assaulted with wooden log. It is contended that when he contacted Laxman, to inform the incident and when Laxman came there, Laxman was also assaulted by the present Petitioners. It is contended that even sword and

iron bars were used and Laxman was assaulted by using those weapons. He has made allegations that during the incident, the Petitioners snatched and took away gold ornaments weighing around 9 Tola of Laxman and cash of Rs.35,000/- was also taken away from him. He gave report in respect of the incident dated 21st February, 2019, on the same day at 18.34 hours.

4. This Court has carefully seen the record of the investigation. The learned counsel for the Petitioners took this Court through the copy of the suit filed by the Petitioners for relief of declaration and injunction, in the year 2018. It is the contention of the Petitioners that that the show-room space is given to Petitioner No.1 and relinquishment deed in that regard was executed by Kisan. It is the contention that after making such documents and when the property was purchased by Petitioner No.1 from his own income, Kisan,

other brother, after execution of document in favour of Petitioner No.1, executed document in favour of Laxman of similar nature and Laxman is trying to misuse that document and is trying to get possession of the show-room illegally.

5. The submissions made and record show that Police have collected CCTV footage in respect of the incident, as CCTV cameras were fixed in the show-room. Statement of Laxman itself shows that show-room is in the name of Petitioner No.1 and he is running the business there. Damage was caused to the furniture of the show-room and incident had taken place inside of the show-room. Informant of the present matter had entered there and there are photographs showing that he was seen near the show-room. There is certificate of registration of the show-room in favour of Petitioner No.1 of the present proceedings. Panchnama prepared in First Information Report No.304 of 2019 registered on

the basis of report given by Petitioner No.1 shows that an attempt was made to take forcible possession of the show-room by the other side.

6. The CCTV footage does not show that any ornaments or cash was taken away by anybody. Petitioner No.1 gave report to police on the same day but first in time and after that present informant gave report. The report shows that both the side exaggerated the things by saying that ornaments and cash was taken away. As the record shows that it was an attempt on the part of Laxman and his associates to take possession forcibly of the show-room, this Court holds that it will be abuse of process of law to ask the Petitioners to face the trial for aforesaid offences. In view of the ratio laid down in the case of **State of Haryana and others vs. Bhajan Lal and others (1992 Supp.(1) S.C.C. 335)**, this Court holds that relief needs to be granted in favour of the Petitioners.

7. In the result The Writ Petition is allowed. Relief is granted in terms of prayer clause "B)". Rule is made absolute in those terms.

(K.K. SONAWANE, J.)

asb/JUL19

[T.V. NALAWADE, J.]