

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL WRIT PETITION NO.902 OF 2019

Kavita Dattatray Bhombe,
Age : 39 Years, Occ. Household and Agril
R/o. Devegaon Tq. Pathri
District Parbhani ... PETITIONER

VERSUS

1. The State of Maharashtra,
Through Police Station, Pathri
Tq. Pathri, Dist. Parbhani
2. Dnyanoba Jijabhau Yewale
Age : 62 Years, Occ. Agriculture,
3. Shivaji S/o Dnyanoba Yewale,
Age : 30 Years, Occ. Agriculture,
4. Rajebhau S/o Dnyanoba Yewale,
Age : 27 years, Occ. Agriculture

Respondent Nos. 2 to 4 resident of
Devegaon Tq. Pathri Dist. Parbhani. ..RESPONDENTS

...

Advocate for Petitioner : Mr. Khande Avinash A
APP for Respondents: Mrs. D.S. Jape
Advocate for Respondent Nos. 2 to 4 : Mr. Subhash Nande
& M.B. Sandanshiv

....

CORAM :T.V. NALAWADE AND
S. M. GAVHANE,JJ.
DATE : 21.11.2019.

ORDER :-

The petition is filed for giving direction to respondent No.1 to re-investigate the matter.

2. Heard both the sides.

3. The crime in C.R. No. 155 of 2018 was registered on the basis of report given by the petitioner in Pathri Police Station, District Parbhani for the offences punishable under Sections 326,327,323,354,504,506 read with Section 34 of the Indian Penal Code. After investigation charge sheet came to be filed for these offences and also the offences punishable under Section 307 of the Indian Penal Code.

4. The record like the statements show that there is dispute over the boundaries of agricultural lands between the petitioner-informant and the accused persons. According to her the incident in question took place on 26.07.2018 after 4.00 p.m She has made allegations that when she was doing some agricultural operations in the field, the accused entered the field and by questioning her as to why they approached police, beating was given to her. The allegations are made that weapon like sickle were used and she was assaulted. Some witnesses rescued her it is allegations that after the assault there was blood on her saree but the said saree was taken away by the accused. The accused took away mobile hand set and also Mangulstura (Necklace) of the informant.

5. Even if the contents of the FIR has considered as they are, improbability can be seen. She wanted to see that section 354 of the Indian Penal Code is used and that is actually added by the police in the charge sheet. No number of the sim card was given and the number of her mobile hand set was also not given. The report of the investigating officer shows that investigation was made on that line. There is report of the investigating officer showing that he tried to find out the truth into the aforesaid allegations but he noticed that there was nothing of that sort committed by the accused persons in the incident. Civil dispute is going in between the petitioner and accused in respect of boundary dispute. The incident had taken place due to boundary dispute and assault was made on the petitioner. This Court has seen the injury certificate. All these injuries were caused by hard and blunt object but weapon like sickle is shown to be recovered and one stick is also shown to be recovered. The proceeding is filed to see that more recovery is made. As the charge sheet is filed the Court can ascertain as to whether the investigation is properly made or not made. The grievance is that statement of one witness was not recorded by the police can also be addressed by the trial Court. For that, in view of nature of dispute there is no necessity of giving direction of re-investigation.

Observations are present purpose only. The petition stands dismissed.

(S.M. Gavhane, J.)

(T.V. NALAWADE, J.)

YSK/