

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

CRIMINAL APPLICATION NO. 1882 2018

Shubham s/o Ashok Nagare,
Age 22 years, Occ. Nil, R/o. Makaranpur,
Tq. Kannad, Dist. Aurangabad. ... **Petitioner.**

VERSUS.

1. The State of Maharashtra,
Through the Police Inspector,
Police Station, Kannad, Tq. Kannad,
Dist. Aurangabad.
2. Vinayak s/o Nathu Sonawane,
Age 50 years, Occ. Agriculture,
R/o. Makaranpur, Tq. Kannad,
Dist. Aurangabad. ... **Respondents.**

...

Mr. K. D. Khade, Advocate for petitioner.
Mr. S. J. Salgare, APP for respondent No. 1.
Mr. A.S. Shejwal, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 11th MARCH, 2019

JUDGMENT (PER T. V. NALAWADE , J) :

1. Rule. Rule made returnable forthwith. By consent heard both sides for final disposal.
2. The proceeding is filed for quashing of F.I.R No. I-221/2015 registered with Kannad Police Station for the offences punishable under section 307, 143, 147, 148, 149, 109, 323, 324, 295 of the Indian Penal Code and under section 3(i)(x) of the Scheduled Castes & Scheduled Tribes

(Prevention of Atrocities) Act and section 135 of the Bombay Police Act and also charge-sheet filed against the applicant for the same offences which is given number Sessions Case No. 137 of 2016 and which is pending in Sessions Court, Aurangabad.

3. This Court has carefully gone through the papers of investigation which include FIR given by one Vinayak Sonwane. According to him in the incident dated 18.10.2015 at about 10 p.m. around 20 persons including present applicant came towards his house, picked up quarrel and assaulted him and his relatives by using stones and sticks. He made specific allegations against Vijay Jadhav and Sumit Jadhav that they had assaulted him on his head by using stones and he has sustained bleeding injuries to his head. The reason of the incident was dash given by the motor-cycle of Dipak Pawar to a minor girl from the family of the first informant. Due to the dash they had warned Dipak to drive properly.

4. This Court has gone through the medical papers and they show that as many as 10 persons sustained simple injuries in the incident, but most of the injuries were blunt injuries and some injuries were CLW. Every witness sustained at the most one injury and all the injuries are described as minor injuries. The crime was registered at Cr. No. 221/2015 and in respect of the same incident Crime was registered at Cr. No. 222/2015 for similar offences as against present first informant and his witnesses.

5. The record shows that even in the FIR no specific allegations are

made as against the present applicant Shubham. Though there are some statement of witnesses including wife of Vinayak to the effect that present applicant had assaulted on the back of Vinayak and blunt injury was caused, the injury certificate show that there was blunt trauma over back but Vinayak has not specifically alleged against the present applicant that he had caused that injury.

6. Learned APP submitted that there will be use of provision of Section 149 of the Indian Penal Code and due to that specific role played by each accused need not be considered.

7. On the other hand the learned counsel for applicant submitted that an attempt was made to rope in almost all the relatives of Dipak Pawar and there will not be convincing evidence against the present applicant. It is submitted that the present applicant was selected by Central Industrial Security Force in the year 2015. There is record to show the process for selection was started in July 2015. The present incident took place on 18.10.2015. Submissions made show show that in scrutiny the information was given in respect of the present crime and due to that the applicant is not cleared and there is scrutiny again in March 2019.

8. In view of the aforesaid record, this Court holds that there is clear probability of exaggeration of things and addition of the applicant in the matter due to aforesaid circumstances. The learned counsel representing first informant on instructions submits that the first informant Vinayak has

no objection for granting the relief and affidavit of that nature is filed on record which is signed not only by Vinayak but his wife and three other persons.

9. In view of such circumstances, application is allowed.

10. Relief is granted in terms of prayer clause 'B'.

11. Rule made absolute in those terms. This is only in respect of applicant and the case against remaining accused is to be tried.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)

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