

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL WRIT PETITION NO.1162 OF 2018**

1. Bhaskar S/o Madhukarrao Phad,
Age : 34 Years, Occ. Service,
Technician, Godur Unit MSEDCL,
Dist. Dhule R/o. Godur Road,
Bhokar, Dhule District Dhule.

2. Panaji S/o Rubji Gavit,
Age : 36 Years, Occ. Service,
Technician, Godur Unit MSEDCL,
Dist. Dhule R/o. Godur Road,
Bhokar, Dhule Dist. Dhule

.. PETITIONERS

VERSUS

1. The State of Maharashtra
Through the Officer Incharge/
Police Inspector
Pashim Deopur Police Station
Dhule, Dist. Dhule

2. Deepak S/o Chatur Bhadane,
Age : 25 Years, Occ. Labourer,
R/o. Jaitoba Nagar,
Infront Nagsen High School,
Wadi Bhokar Deopur, Dhule
Dist. Dhule.

.. RESPONDENTS

...

Advocate for Petitioners : MR. Mundhe Sanjay V.

APP for Respondents: Mr. R. D. Sanap

Advocate for Respondent No.2 : Mr. Aditya N. Ayachit
(Appointed)

...

CORAM :T.V. NALAWADE AND
K.K. SONAWANE ,JJ.DATE : 3rd JULY, 2019.**ORAL JUDGMENT**

Rule. Rule made returnable forthwith. By consent, heard both
the sides for final disposal.

2. The proceeding is filed for relief of quashing of FIR No. 127 of 2017 registered with Pashim Deopur Police Station, District Dhule for the offences punishable under Sections 324,323,504 and 506 of the Indian Penal Code. The F.I.R is given by one Deepak Chatur Bhadane who is resident of Wadi Bhokar District Dhule. The incident took place on 15.11.2017 after 4.00 p.m. Some work of electricity Department was going on in front of house of the one Trimbak Patil and so Deepak went there. He wanted to collect the information about the three phase connection which he wanted to take for his residential place. When he started making enquiry with Bhaskar Phad the petitioner No.1 Bhaskar became angry and he pushed and pull Deepak and ultimately gave blow of Tong (Pakkad) on his head and due to that he sustained bleeding/ bleeding injury to his head. He was taken to Civil Hospital Dhule. He gave report to the police and on the basis of report the crime at C.R. No. 127/2017 of came to be registered on 22.48 hours of 15.11. 2017.

3. The learned counsel for the petitioners submitted that prior to registration of the aforesaid crime report was given by Bhaksar Phad against Deepak at 22 hours and crime was registered against Deepak for the offence punishable under Sections 353, 323, 332, 504 and 506 of the Indian Penal Code. He submitted that only to give counter blast report was given by Deepak.

4. This Court has seen the paper of investigation which includes the record of medical examination of Deepak. He was examined in Government Hospital on 15.11.2017 at 5.30 p.m and injury CLW was found at left partial region having size of 3x1x1 cm. Injury was caused by hard and blunt object and it is described as simple injury.

5. The FIR given by Phad shows that he is not disputing that during the incident Deepak sustained injury, but he is contending that Deepak sustained injury due to brick which Deepak was holding in his hand and when Deepak was trying to assault Phad.

6. The learned counsel for the petitioner submitted that the petitioners are public servants and so in view of the provisions of Electricity Act crime cannot be registered against them as they were discharging public duty. This submission is not acceptable. Assaulting somebody is not covered by the concept of public duty. The aforesaid material is sufficient to infer that some incident did take place. Both the FIR's are given against each other. The first informant in the present matter had taken to the Civil Hospital at 5.30 p.m and after that he went to police to give the report. In view of these circumstances this Court holds that relief cannot be given to Bhaskar Phad. However, there are no allegations as against Panaji Gavit, petitioner No.2. In view of this circumstances, this Court holds that relief can be given to petitioner

No.2 Panaji. In the result, the petition of petitioner No.2 Panaji Gavit is allowed. Relief is granted to him in terms of prayer clause 'C. The petition of petitioner No.1 Bhaskar Phad stands dismissed. In aforesaid terms rule made absolute only to the extent of petitioner No.2 Panaji Gavit.

7. Fees of the learned appointed Advocate on behalf of respondent No.02, is quantified at Rs. 3,000/ (Rupees three thousand), which would be payable by the High Court Legal Services Sub Committee at Aurangabad.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

YSK/