

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2410 OF 2018

- 1) Abhiman S/o. Bansi Gaikwad,
Age 42 years, Occ. Labour,
- 2) Parshuram S/o. Malhari Gaikwad,
Age 33 years, Occ. Labour,
- 3) Amol S/o. Bharat Jadhav,
Age 27 years, Occ. Labour,
- 4) Balu S/o. Shahaji Jadhav,
Age 28 years, Occ. Labour,
- 5) Prashant S/o. Shivaji Jadhav,
Age 33 years, Occ. Service,

All R/o. Subhash Colony, Islampura,
Beed, Tq & Dist. Beed.
- 6) Baban S/o. Ram Gaikwad,
Age 43 years, Occ. Business,
Balbhim Nagar, Beed, Tq. & Dist. Beed.
- 7) Nitin S/o. Ankush Gaikwad,
Age 23 years, Occ. Labour,
- 8) Sushil S/o. Shivaji Jadhav,
Age 20 years, Occ. Education,
- 9) Nilesh S/o. Bharat Jadhav,
Age 21 years, Occ. Education
Both R/o. Subhash Colony, Islampura
Road, Beed, Tq. & Dist. Beed.

... APPLICANTS
(Orig. Accused Nos.1 to 9)

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Shivaji Nagar Police Station,
Beed Tq. & Dist. Beed.
- 2) Suresh S/o. Dallu Rathod,
Age 27 years, Occ. Education, ... (Orig. Complainant)
- 3) Ramesh S/o. Dallu Rathod, ... (Injured witness)
Age 29 years, Occ. Business,
Both R/o. N.K. Colony, Khandeshwari
Road, Beed Tq. & Dist. Beed. ... **RESPONDENTS**

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Mr. R. G. Hange, Advocate for Applicants.

Mr. S. B. Joshi, APP for Respondent/State.

Mr. H. V. Tungar, Advocate for Respondent Nos.2 & 3.

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

DATE : 02nd April, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The learned APP strongly opposed the application by

submitting that the incident took place in the vicinity of the Court premises and terror was created on that day due to the incident.

3 The proceeding is filed for relief of quashing of criminal case bearing R.C.C. No.256 of 2017, pending in the Court of learned Judicial Magistrate First Class, Beed, for the offences punishable under Sections 307, 336, 143, 147, 148, 149, 120-B of the Indian Penal Code and Section 7 of the Criminal Law Act.

4 This Court has carefully gone through the allegations made in the FIR by the first informant and the allegations made by the witnesses. The Applicants, Accused were known to the first informant. On 19th January, 2017, some of the Applicants like Nilesh Jadhav and Amol Jadhav had gone to the Court as witnesses. On that day, next date was given by the Court as 30th January, 2017 and so, the first informant and the relatives were coming out of the Court premises. Allegations are made that when they were coming out of the Court premises, two persons like Nilesh Jadhav and Amol Jadhav came with other Applicants and other unknown persons and they started assaulting the first informant and his brother Ramesh.

Allegations are made that a stone was hit on the head of Ramesh and assault was made on the first informant also and the assailants had used belts also. This Court has gone through the injury certificate and it shows that Ramesh sustained two CLWs over forehead and occipital bone and one contusion over right lumbar region. Due to head injury there was mild cerebral oedema and on 19th January, 2017, the date of incident, Ramesh was admitted for further management as there was head injury.

5 The record shows that the incident took place due to private dispute. It is submitted that there was some dispute in the past between the two sides, but the two sides have now decided to live peaceful life by settling the dispute. The learned APP placed reliance on observations made by the Apex Court in the case reported as **2017 (4) Bom. C.R. (Cri.) 372**, (*Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another*). The said case did not involve private dispute. The present matter is involving private dispute. Further in view of the nature of injury, which was sustained by Ramesh, this Court holds that it is not possible to believe that there was an attempt on the life of Ramesh.

6 Though there were circumstances of aforesaid nature, this Court cannot ignore the circumstance that the incident took place in the vicinity of the Court and it must have created terror in the vicinity of the Court. As many as nine Applicants are involved in the present matter and they must have atleast pelted stones. Though they have settled the dispute and affidavit in that regard is filed, this Court holds that the Applicants need to be made to realize that they cannot escape this way and for that some cost needs to be imposed on them. This Court holds that each Applicants need to deposit amount of Rs.3,000/- for getting relief claimed. In view of all these circumstances, this Court holds that relief needs to be granted. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Amount of Rs.27,000/- (Twenty Seven Thousand only) needs to be deposited by the Applicants in this Court within 15 days from today.

- IV. The amount is to be credited to the High Court Legal Services Authority.
- V. If the amount is not deposited within 15 days from today, it is to be treated that the present proceeding is dismissed.
- VI. Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T. V. NALAWADE, J.]

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