

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

CRIMINAL APPLICATION NO. 3314 OF 2018

Rajkumar S/o Bhavarilal Chhajed,
Age 54 years, Occ. : Business,
R/o Lokseva, Kacheri Road, Amalner,
Tq. Amalner, Dist. Jalgaon.

... APPLICANT

VERSUS

1. The State of Maharashtra,
Through Inspector Police Station Amalner,
Tq. Amalner, Dist. Jalgaon.
2. Shashikant S/o. Baburao Patil,
Age- 64 years, Occ. Nil,
R/o Near Shivaji Garden,
New Plot, Amalner, Dist- Jalgaon.

... RESPONDENTS

...
Mr. B. R. Warmaa, Advocate for Applicant.

Ms. V. S. Choudhari, APP for Respondent No.1 / State.

Mr. S. P. Brahme, Advocate for Respondent No.2.

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

DATE : 14th June, 2019.

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

. 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.81 of 2014, registered with Amalner Police Station, Taluka Amalner, District Jalgaon for the offences punishable under Sections 384 and 385 of the Indian Penal Code and also for relief of quashing of the case filed in the Court of Judicial Magistrate First Class in this crime.

3 This Court has carefully gone through the allegations made by Respondent No.2, Shashikant Patil against the Applicant, Rajkumar Chhajed. Main allegations made by Shashikant that the present Applicant is trying to extract money from him by giving applications against him to local body and to others. The submissions made show that the first informant is owner of one property, which was having one storied building. First floor of that building was constructed and that floor is occupied by Rajkumar. In FIR itself, it is admitted that Rajkumar spent for that construction an amount of Rs.2,00,000/- and in addition to that, an amount of Rs.3,00,000/- was

given by cheque by Rajkumar to the first informant and after that possession of the first floor was given to the Accused.

4 It is the contention of the first informant that the Accused then made demand of Rs.10,00,000/- from him as ransom amount and out of fear he gave Rs.2,00,000/- to the Accused in the presence of Pravin Patil and Anil Satpute. It is contended that as remaining amount was not given, Accused made complaints to the Local Body, Amalner and also report to police against the wife of first informant. It is contended that even when no illegality is committed by him in making construction of the building, the Engineer of the local body gave report and crime at C.R. No.9 of 2014 is registered against him on the basis of that report. He has contended that he had given complaint to police that Accused had demanded Rs.10,00,000/- as ransom, but no action was taken by police. He filed private complaint before the Judicial Magistrate First Class and in that complaint, order of investigation is made by the Judicial Magistrate First Class and then crime at C.R. No.81 of 2014 came to be registered.

5 In the proceeding, there is a record to show that more

construction is made by the first informant than the approved layout plan, he has made encroachment over road and he has virtually closed the road kept for access of public. It is admitted that the local body has given report against him and on that basis crime is already registered against him. If the Applicant had spent for construction of first floor and he had also paid some amount for occupying that first floor, there was no reason for the Applicant to create a dispute or demand ransom amount from the first informant. The record of show cause notice and other record of local body show that the local body is taking action against the first informant as he made illegal construction. There must be some dispute between the Applicant and the first informant and due to that report is given. The allegations made do not show that such incident probably took place. The Applicant is a reporter and this Court is deciding other matter bearing Criminal Application No.3315 of 2018 today and it shows that the Applicant has some dispute with the local body member and there is a contention that the first informant is acting at the behest of the said local body member. It will be abuse of process of law if the Applicant is asked to face the trial for the aforesaid offence on the basis of vague allegations of aforesaid nature. In the result, the following

order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clauses (B) and (BB).
- III. Rule is made absolute in those terms.

[K. K. SONAWANE, J.]

[T. V. NALAWADE, J.]

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