IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3459 OF 2018

1. Kailas S/o Prabhakar Shinde,
   Age : 38 Years, Occ. Agriculture,

2. Pandurang S/o Asaram Shinde,
   Age : 35 Years, Occ. Agriculture,

3. Prabhakar S/o Radhakisan Shinde,
   Age : 68 Years, Occ. Agriculture,

4. Vatasalabai W/o Prabhakar Shinde
   Age : 63 Years, Occ. Household

5. Sunita W/o Kailas Shinde,
   Age : 33 Years, Occ. Household

   All resident of Post Gokulwadi,
   Taluka and District Jalna .. APPLICANTS

VERSUS

1. The State of Maharashtra
   Through the Taluka Jalna Police Station,
   Tq. And Dist. Jalna

2. Bharat S/o Baliram Bendre,
   Age : 34 Years, Occ. Agriculture and
   Business,
   R/o. At post Gokulwadi, Tq. And Dist.
   Jalna .. RESPONDENTS

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Advocate for Applicants : Mr. K.F. Shingare
APP for Respondents: Mr. A. S. Shinde
Advocate for respondent No.2 : Mr. S.R. Zambare h/f Mr. Srikant Kawade.

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CORAM :T.V. NALAWADE AND
K.K. SONAWANE ,JJ.
DATE : 9th JULY, 2019.

JUDGMENT(PER T.V. NALWADE, J] :-

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

2. The present proceeding is filed for relief of quashing of FIR No. 154 of 2015 registered with Taluka Jalna police station district Jalna for the offence punishable under Section 324 of the Indian Penal Code and also for quashing of proceeding R.C.C. No. 491 of 2015 filed in the Court of learned Judicial Magistrate First Class, Jalna in C.R. No. 154 of 2015. This Court has seen the papers of the investigation. The F.I.R is given by one Bharat Bendre. He has made allegations that on 15.6.2015 the present applicant, accused entered his place and virtually pulled down the cattle shed. It is his contention that when he went to the spot and tried to convince them, the accused picked up quarrel and they gave abuses to his father and gave threat of life and then accused Pandurang assaulted him by using axe and accused Kailas assaulted him by using Iron bar. Allegations are made that accused Prabhakar assaulted father and also to him. The allegations are made that during the incident the two lady accused who were present on the spot were instigating other accused to finish the injured and they also gave abuses.

3. The papers of investigation contains statements of some witnesses. They do not show the actual role played by the lady accused. Injury certificate in respect of Baliram shows that he has sustained

contusion injury on the left fore arm upper one third. Bharat and Baliram sustained one contusion each. There is no other record of injury. However, the spot panchnama shows that damage was caused to the cattle shed.

4. The allegations made against lady accused are very vague in nature. The allegations do not show that there was any reason for them to take part in the incident. They are relatives of the other accused and there is possibility that as the incident was taking place they were present near the scene of offence. This Court holds that it will be abuse of process of law if these two ladies are asked to face the trial for the aforesaid offences. In the result, the application of applicant Nos. 4 and 5 is allowed. Relief is granted to them in terms of prayer clause 'C'. The application of remaining accused Nos. 1 to 3 is disposed of as withdrawn. Rule made absolute to the extent of applicant Nos. 4 and 5 only.

5. The learned Judicial Magistrate, F.C to consider as to whether section 148 and 149 of the Indian Penal Code can be used as two accused will not be there to face the trial.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

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