

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

907. CRIMINAL APPLICATION No. 58 of 2020

1. Baburao S/o Fakirrao Wakale,
age 73 years occupation agriculture
R/o Sonkheda Taluka Khultabad District Aurangabad.
2. Sumanbai W/o Baburao Wakale,
age 70 years occupation household R/o as above
3. Dattu S/o Sahebrao Wakale,
age 34 years occupation agriculture R/o as above
4. Sheshrao S/o Sahebrao Wakale, age 46 years
occupation & R/o as above. ...Applicants

VERSUS

1. The State of Maharashtra
Through : In-charge Police Inspector,
Khultabad Police Station, Khultabad
Taluka Khultabad District Aurangabad
2. Gayabai W/o Gopinath Nade,
age 55 years occupation household
R/o Aadgaon Tal. Aurangabad Dist. Aurangabad ...Respondents

Mr. V.D. Sapkal, Advocate for applicants

Mr. S.P. Tiwari, Addl. Public Prosecutor for respondent No.1/State

Mr. R.C. Bora, Advocate for respondent No.2

CORAM : T.V. NALAWADE &

M.G. SEWLIKAR, JJ.

DATE : 2nd September, 2020

J U D G M E N T (Per : T.V. NALAWADE, J.)

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

2. This proceeding is filed for the relief of quashing of the first information report No. 306 of 2019 registered in Khultabad Police Station District Aurangabad, for offences punishable under Sections 325, 504, 506 read with Section 34 of the Indian Penal Code and U/S. 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The crime was registered on the basis of the report given by respondent No. 2.

4. The incident in question allegedly took place on 18/10/2019. It is contention of informant Smt. Gayabai Gopinath Nade that she has some civil dispute with present applicants though the applicants are in possession of the land. It is the contention that on the day of the incident at about 4.00 pm, she herself, her brother Janardan, sister Malanbai and others decided to visit the disputed field and to see the condition of Mango trees therein. It is contended that all of them reached in the field at about 5.00 pm and they noticed that the present applicants were present in the field. It is contended that the present applicants questioned as to why the informant and her relatives had come there and they assaulted the informant by blunt side of axe. It is contended that threats of life were also given. It is contended that she belongs to a Scheduled Caste and so the offences under the Indian Penal Code and the

special enactment are committed by present applicants.

5. This Court has carefully seen the papers of investigation. Though the crime is registered for the offence punishable U/S. 325 of I.P.C., the injury certificate available in the police papers shows that Gayabai sustained injury like contusion over left elbow joint and this injury is described as simple injury and it was sustained within 12 hours. She was examined on 18/10/2019 at about 7.30 pm.

6. The submissions made and the record show that informant Gayabai and her other relatives had filed Regular Civil Suit No. 238 of 2001 in the Civil Court, at Aurangabad, for the relief of partition and separate possession of aforesaid land and other land. Copy of the plaint of Reg. Civil suit No. 238 of 2001 is produced but the judgment is of Reg. Civil Suit No. 216 of 2009 and it shows that old No. of the suit is mentioned as 484 of 2006. The judgment shows that the suit was filed by the informant for declaring sale deed deed 17/12/2070 as illegal and void and it was filed in respect of agricultural land Gat No. 73 (old survey No. 38/1).

7. The informant was served with the notice of the present proceedings but she did not turn up. The Counsel was appointed through the Legal Aid to represent her. Though the circumstance like discrepancy of the relief claimed in the aforesaid record is

there, in the F.I.R. there is mention that the land was in possession of applicant Baburao Wakale and the record shows that the land was purchased by him in the year 1970. The Trial Court imposed compensatory costs of Rs. 3000/- on the plaintiffs in the decision given in Reg. Civil Suit No. 216/2009. There is copy of the judgment delivered by the District Court in Reg. Civil Appeal No. 278/2011 and it shows that this appeal was filed to challenge the decision given in Reg. Civil suit No. 216/2009. The appeal came to be dismissed on 21/09/2015. As it is admitted that the applicants are in possession of the disputed property and as there are aforesaid copies of the judgments on record, it can be said that it was not open to the informant and her relatives to enter the disputed land. It can be said that as the dispute is already decided in favour of the applicants, the informant and her family members are interested to pressurise the applicants in other way. No serious injury was sustained by the informant and there is no circumstantial check to the allegations made in the F.I.R. Apparently, the informant and her relatives are trying to misuse the circumstance that they belong to the Scheduled Caste.

8. The learned Counsel for the applicants placed reliance on the observations made by this Court in the case reported as ***Bharat Murlidhar Satpute Vs. State of Maharashtra and another [2019(4)***

Bom. C.R. (Cri.) 557]. In that case, this Court had given the relief of quashing of F.I.R. when there was possibility of false implication. This case needs to be decided on the basis of the relevant facts of that case. This Court has discussed the relevant facts of the present matter and that shows that giving of the F.I.R. is nothing but pressurise tactics used by the litigant. It will be abuse of process of law if the applicants are directed to face the trial if case is filed for aforesaid crime. In the result, following order.

O R D E R

- I. The application is allowed.
- II. Relief is granted in terms of Prayer Clause (B)
- III. The fees of the appointed Counsel is quantified as Rs. 4000/- (Rs. Four thousand only) and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.
- IV. Rule is made absolute in those terms.

Sd/-
(M.G. SEWLIKAR)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE