

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1651 OF 2015
WITH
CRIMINAL APPLICATION NO. 211 OF 2018

Vasant s/o. Bhagwat Papinwar **....Petitioner.**

Versus

The State of Maharashtra and Ors. **....Respondents.**

WITH
CRIMINAL WRIT PETITION NO. 320 OF 2016
WITH
CRIMINAL APPLICATION NO. 212 OF 2018

Vasant s/o. Bhagwatrao Papinwar & Anr. **....Petitioner.**

Versus

The State of Maharashtra and Ors. **....Respondents.**

Mr. S.V. Kurundkar h/f. Mr. M.D. Narwadkar, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondents.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 21/10/2020.

ORDER :

1. The first proceeding bearing Criminal Writ Petition No. 1651/2015 is filed for the relief of quashing and setting aside the communication dated 22.9.2015 which is sent from the office of District Superintendent of Police Nanded to the present petitioner. In this communication, it is informed by the Superintendent of Police that inquiry was made in to the grievance of the petitioner and it was noticed that he had dispute with some persons which was of the

nature of revenue entries and of civil nature and so, police action is not possible. During arguments, it was submitted that Criminal Writ Petition No. 320/2016 which was filed for police protection can be disposed of as infructuous as protection was claimed for the period May, June, September and October 2016. Criminal Applications are filed for early hearing of the matters. Both the sides are heard.

2. The submissions made and the record show that right from the year 2014, the petitioner has been making complaints to police against his rival like Prabhakar Jondhale, Kasturbai Jondhale, Manohar Jondhale, Narayan Dunde and others. He has grievance that these persons are causing damage to the standing crop and they are also committing theft of his crop. It is his contention that his family is the owner of lands Gat No. 91/1, 92, 105/4, 105/7, 105/9 and 105/10. It is his contention that the property was purchased between years 2002 and 2003 and since the date of purchase they are in possession of these lands and they are cultivating the lands. In the application given to police in the year 2014 he contended that his crop which involved wheat, gram was worth Rs.84,000/- was stolen and similarly, some portion of crop Tur, Soyabean was also stolen. He had contended that some persons were engaged by his opponents to commit the offence. It is his contention that these opponents are asking him to give him 15 Acre portion and Rs. five lakh to have peace with them and as he is refusing, they are harassing him by

aforesaid way. In the application/representation made on 2.4.2014 the petitioner had contended that there was dispute on revenue side in respect of the entries in crop cultivation column of 7/12 extract, but those proceedings are decided in his favour, but even after that the opponents are harassing him. On 24.4.2014 he gave another complaint and raised grievance that aforesaid persons were causing damage to his pipeline, electric motor etc. He had given complaint to police and Tahsildar. On 8.7.2014 he gave another representation and informed police that for about 17 months he was receiving harassment from these persons.

3. It appears that the petitioner had approached this Court atleast on two occasions for seeking directions against police to consider and decide his complaints, representations. After getting the decision of Criminal Writ Petition No. 151/2015 he again approached police and gave representation and submitted that police were expected to take decision on this representation as per the order made by this Court. This representation shows that he mentioned the incidents which had allegedly taken place from April 2014 to October 2015. The representation was given in July 2016.

4. This Court has carefully gone through many representations of aforesaid nature which were given by the petitioner to police. In all the representations allegations are very

vague. In representation, it is not even mentioned that he was present in the land when activity of aforesaid nature was done. Considering the area of the land, it cannot be said that the activities of the opponents had taken place behind his back. No specific incident is mentioned to say that on a particular day the opponents had come to the field and they had committed aforesaid acts. It can be said that on the basis of such allegations which involved civil dispute, it was not proper for police to take cognizance and take action against the opponents.

5. The submissions made by the learned counsel for petitioner and the record show that other side had filed suit for declaration and injunction and in that suit counter claim was filed by the side of the petitioner. It appears that the counter claims in respect of the temporary injunction and also declaration of ownership were allowed by Trial Court. The temporary injunction was given on 29.1.2015 and the counter claim was decided in favour of the petitioner on 27.4.2016. Thus, at present there is the decree of declaration of ownership and permanent injunction in favour of the petitioner. It can be said that subsequently he could get the aforesaid order and decree from Civil Court. When there is such record in his favour, in ordinary course, he could have approached Civil Court for execution of decree and for getting protection of police to enforce his rights. This was not done for the reasons best known

to the petitioner. There is probability that the petitioner was not properly advised and so, he continued to make representations to police in the past. Atleast after getting the decision from Civil Court he ought to have taken proper steps to protect his property. From the submissions and the record, it can be gathered that the dispute over the landed property is the crux of the disputes. In view of these circumstances, this Court holds that the police authority has not committed any error in issuing the communication of aforesaid nature in response to the grievances raised by the petitioner. As proper remedies are available, this Court holds that no more directions which will be vague in nature can be given. As it is not possible to quash the communication, Criminal Writ Petition No. 1651/2015 stands dismissed. Criminal Writ Petition No. 320/2016 stands disposed of as it has become infructuous. Other two applications stand disposed of as this Court is disposing of the main matters.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

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