

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

**CRIMINAL WRIT PETITION NO. 1028 OF 2019**

1. Mr. Pradeep Madanlal Tated  
Age: 58 years,  
Occ.:- General Medical Practitioner
2. Mr. Mahavir s/o Madanlal Tated  
Age: 58 years,  
Occ.:- General Medical Practitioner

Both are presently residing at  
Tailor Line, Parli Vaijnath,  
Tal. Parli Vaijnath, Dist. Beed.

... **Petitioners**

Versus

1. The State of Maharashtra,  
Through the Superintendent of Police,  
Beed.
2. The Police Station Officer,  
Parli City Police Station,  
Parli, Beed.
3. Mr. Ram Rangnath Munde,  
Age: 64 years, Occ. Regired ASI,  
Presently residing at  
Shivaji Chowk, Parli Vaijnath,  
Tal. Parli, Dist. Beed, Maharashtra.

... **Respondents**

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Ms. Priyanka N. Matlane, Advocate for the Petitioners.  
Mr. S.G. Sangle, A.P.P for Respondent-State.  
Mr. V.P. Golewar, Advocate for Respondent No.3.

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**CORAM : T.V. NALAWADE &  
M.G. SEWLIKAR, JJ.**  
**DATE : 20.02.2020**

**JUDGMENT :- (Per: *M.G. Sewlikar, J.*)**

Rule. Rule is made returnable forthwith. Learned A.P.P. and the learned advocate for the respondent no.3 waived service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. This is a petition under Section 226 of the Constitution of India and under Section 482 of the Cr.P.C. Facts giving rise to this petition are that respondent no.3 filed F.I.R. No.130 of 2018 with Police Station Parli City, District Beed against the petitioner nos.1 and 2 alleging that he is staying on the first floor of the house and construction of second floor of the house was going on. Petitioner no.1 has a shop of automobiles adjacent to the informant's house. On 21.07.2018, at 3.30 pm the informant and his wife-Godavari were at home. At that time petitioner nos.1 and 2 came to the first floor and asked him as to why he had pelted bricks at them. The respondent no.3 answered that he did not pelt the bricks but would check as to how the bricks fell down. The petitioner nos.1 and 2 got enraged and abused him and threatened him to kill. When the respondent no.3 was climbing the staircase, both the petitioners pushed him down with force owing to which he sustained fracture to his left hand and sustained injuries on his head and right eye brow.

His wife-Godavari came to his rescue. The petitioner nos.1 and 2 tore her gown and pulled her down from the staircase. The contractor-Habib Khan and his labourers rescued him. Therefore, F.I.R. was accordingly lodged on 23.07.2018. On the basis of this F.I.R. offences punishable under Section 354, 325, 324, 323, 504, 506 of the I.P.C. has been registered against the petitioner nos.1 and 2.

3. Heard Ms. Priyanka Matlane the learned advocate for the petitioners, Shri S.G. Sangle the learned APP for the respondent-state and Shri V.P. Golewar the learned advocate for the respondent no.3.

4. Ms. Matlane the learned counsel argued that there is delay in lodging the F.I.R. for which no explanation is forthcoming. On the bare perusal of the F.I.R. commission of any cognizable offence by the petitioners is not made out. The informant-respondent no.3 has given supplementary statement on 04.08.2018. This statement is contrary to the contents of the F.I.R. She argued that the things which were not stated while lodging the F.I.R. have been stated in the supplementary statement dated 04.08.2018. Therefore these allegations are nothing but an afterthought and therefore the F.I.R. deserves to be quashed.

5. The learned APP Shri Sangle and Shri Golewar argued that the

respondent no.3 has sustained fracture and there are other injuries also. This clearly shows that the incident as alleged has happened and therefore F.I.R. cannot be quashed.

6. On perusal of the papers it is seen that the incident took place on 23.07.2018. It is alleged that the respondent no.3 had sustained fracture to his left hand and has sustained injury to his head and right eye brow. Prosecution has produced injury certificate which shows that respondent no.3 has sustained fracture to his left wrist and it is a grievous injury. Certificate also shows that respondent no.3 has sustained two CLWs on forehead and right side of the face and abrasions. It further shows that respondent no.3 was examined on 21.07.2018 at 4.00 pm and the date and time of incident is 21.07.2018 at 3.30 pm. The statement of Habib Khan-Contractor shows that on the day of the incident at 3.30 pm he heard commotion on second floor and first floor therefore he went down and found that both respondent no.3 and his wife were standing there and they stated that they were beaten by petitioners. Wife of respondent no.3, Godavari has also stated that respondent no.3 was pushed by the petitioners and he sustained fracture. She also stated that when she was trying to rescue her husband the petitioner no.1-Pradeep pulled her down. Thus on the basis of the evidence produced by the prosecution it cannot be said that uncontroverted allegations in the F.I.R.

do not indicate commission of any cognizable offence. The F.I.R. and the injury certificate clearly shows that respondent no.3 sustained grievous injury i.e. fracture because of the overt act of the petitioner nos.1 and 2. In this view of the matter the F.I.R. cannot be quashed. Hence the petition is dismissed. Rule is discharged.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]