

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 2350 OF 2018

RAMESH BABULAL BHAGAT
AND OTHERS ..APPLICANTS
VERSUS
THE STATE OF MAHARASHTRA
AND ANOTHER ..RESPONDENTS

....
Advocate for the Applicants : Mr. S.J. Salunke
A.P.P. for respondent-State : Mr. M.M. Nerlikar
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CRIMINAL APPLICATION NO. 302 OF 2020

SAYYAD AZHAR SAYYAD SAMAD
AND OTHERS ..APPLICANTS
VERSUS
THE STATE OF MAHARASHTRA
AND ANOTHER .. RESPONDENTS

....
Advocate for the Applicants : Mr. P.B. Kadam
A.P.P. for Respondent-State : Mr. S. B. Narwade
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CORAM :T.V. NALAWADE AND
M. G. SEWLIKAR,JJ.
DATE : 02.03.2020.

ORDER :-

The first proceeding is filed for relief of quashing of FIR No. 183 of 2018 registered with Chandanzira Police Station Jalna for the offences punishable under Sections 307, 324, 323, 336, 337, 427, 149, 148, 147, 143 read with Section 34 of the Indian Penal Code. The crime is registered also for the offences punishable under Sections 4/25 of the Arms Act and

Section 3 of Prevention of Damage to Public Property Act 1984 and Section 135 of the Bombay Police Act. The second proceeding is filed for the relief of quashing of FIR No. 184/2018 and crime is registered on the same police station. The crime is registered for the offenses punishable under sections 307, 324, 326, 337, 338, 143, 147, 148, 149 of Indian Penal Code and Section 4/25 Arms Act and Section 135 of Bombay Police Act.

2. Both the sides are heard.

3. Both the FIR's are given in respect of incident dated 24.06.2018. The informant of first proceeding is accused in the second proceeding and the informant of second proceeding is accused in first proceeding.

4. In the first proceeding the informant Sayyed Azar has made allegations that on 24.06.2018 when he and his friends Shaikh Amjad, Hafiz, Shaikh Vaif and Shaikh Rahuf were proceeding in the car of the informant, the car was intercepted near the house of Ramesh Bhagat at Kanhaiyya Nagar by Ramesh Bhagat and his three sons like Nilesh Bhagat, Yogesh Bhagat and Mangesh. They were holding weapons like iron rod

rods and swords. When the informant questioned as to why his car was intercepted, 10 to 15 persons who were in the vicinity rushed to the car and they were also holding weapons like swords, sticks, rods and stones. Allegations are made that all of them assaulted the informant and other persons who were present in the car by using this weapons. Specific allegations are made that Nitin attempted a blow of iron rod on the head of the informant but informant avoided the blow by raising his hand and he sustained fracture to his left hand. He has contended that Yogesh gave blow of sword on his chest and due to that he sustained bleeding injury. Allegations are made then Ramesh then gave stick blow on his head and he sustained blood injury on his head. He has made allegations that Mukesh Bhagat and Bhagu Bhagat assaulted Shaikh Amjad on his head by using iron rods and due to that he sustained bleeding injury to his head. He has contended that Mangesh Bhagat, Balu Bhagat, Kachru Bhagat, Daya Bhagat used sticks and they assaulted Shaikh Amjad. Allegations are made that Akash Borde, Kishor Bhagat used iron rods any they assaulted the other persons who were present in the car. Allegations are made that then there was stone pelting on his car and in stone pelting damage was caused to his car. Allegations are made that in the incident the aforesaid persons

pelted stones on other cars and at buildings and due to that the other vehicles including the vehicles of police were also damaged.

5. In the second proceeding allegations are made by Nitesh Bhagat that on 24.06.2018 in the night time when he was returning home, at Kanhaiyya Nagar T- point swift car of white colour came towards him and gave dash to him. According to him, he cried and questioned the driver about the rashness of the driving. It is contended that the car driver then stopped the car and then persons like Sayyed Azhar and two others alighted from the car and picked up quarrel with him. It is contended that Azhar gave slaps to him and then other persons like Hafis gave threat of life and he gave blow of one pointed weapon to him and weapon hit to his face and he sustained injury due to that blow. It is contended that when the quarrel started his father rushed to the spot and then other three persons who were in the company of Sayyed Azhar started assaulting his father. It is contended that 30 to 40 Muslim boys then gathered there and they started pelting stones at informant and his relatives. It is contended that due to stone pelting his father and other sustained injuries and police came there, intervened in the incident. This complaint

was also gave on 25.06.2018.

6. Submissions was made by the learned counsels of the applicants in both the proceedings that parties have settled the dispute and the informant and witnesses have no intention to give evidence against the accused. Affidavits of the informant came to be produced to that effect in both the proceedings.

7. In view of the nature of allegations and the circumstances that the property was damaged of public, this Court had asked the learned A.P.P to ascertain the antecedents of the applicants. Learned A.P.P. showed papers of investigation and showed the information supplied by the police about the antecedents. The submissions made and report show that against some accused from both the sides cases were filed in the past. The papers show that police persons had also sustained injuries in the incident and police jeep was damaged in the incident. Damage was caused to the vehicles of other persons also and photographs of damaged cars and other vehicles are present in the police papers. Thus, the damage was caused to the property of others and many vehicles were damaged. Some persons on both the sides

sustained injuries and there are injury certificates in police papers. It appears that one group was belonging to Hindu community and other group was belonging to Muslim community. It was actually riot and both the sides had not spared others who had no involvement in the aforesaid dispute between the two groups. As the damage was caused to the property of others and also public property, it cannot be said that only the persons who are accused and informants in two FIR's can settle the dispute. Such incidents are increasing day by day and the persons who are peace living and who do not want to get indulged in such activities are the sufferers. The persons who are committing such offences need to learn a lesson and only after full pledge trial of such incidents they will realize the seriousness of the offence committed by them. This Court holds that it is not fit case where relief can be given to the applicants. In the result, both the proceedings are dismissed.

(M.G.SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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