

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

CRIMINAL APPLICATION NO.1603 OF 2020

1. Ganesh S/o. Bhagchand Malwade,
Age : 29 years, Occu.: Service,
2. Bhagchand S/o. Barikrao Malwade,
Age: 51 yeas, Occu.: Agri.,
3. Radhakisan S/o. Barikrao Malwade,
Age: 56 years, Occu.: Agri.,
4. Janardan S/o. Bhagchand Malwade,
Age: 24 years, Occu.: Agri.,
All R/o. Dhorsade, Tq. Shevgaon,
Dist. Ahmednagar.

**... APPLICANTS
(Ori. Accused)**

VERSUS

1. The State of Maharashtra,
Through Investigation Officer,
Shevgaon Police Station,
Tq. Shevgaon, Dist. Ahmednagar.
2. Aniket S/o. Gangagir Gosavi,
Age: 35 years, Occu.: Agri.,
R/o. Dhorsade, Tq. Shevgaon,
Dist. Ahmednagar.

**... RESPONDENTS
(Orig. Complainant)**

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Mr. Narayan B. Narwade, Advocate for Applicants.

Mrs. V. N. Patil-Jadhav, APP for Respondent No.1 / State.

Mrs. Sunita G. Sonwane, Advocate for Respondent No.2.

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

DATE : 15th January, 2021.

ORDER: (Per T. V. Nalawade, J.)

. The application is filed for quashing of proceeding of R.T.C. No.22 of 2020, presently pending in the Court of learned Judicial Magistrate First Class, Shevgaon, District Ahmednagar. The case is filed in Crime No.436 of 2019, registered with Shevgaon Police Station, District Ahmednagar, for the offences punishable under Sections 326, 323, 143, 148, 149, 504 and 506 of the Indian Penal Code.

2 Heard both the sides.

3 The crime was registered on the basis of report given by Respondent No.2. In the report, allegations are made that in the incident dated 15th August, 2019 at about 06:30 pm, when the informant and his wife Jyoti were returning from their field, in land Gat No.55, which is acquired for Jayakwadi dam project, the present Applicants intercepted them and prevented them from using that portion as road. It is contended that when the informant said that from prior to the acquisition of land for the project the said portion was in use as road and the accused cannot obstruct them, present Applicants, accused quarreled with the informant and his wife and then assaulted them. Specific role played by the Applicants in the incident is mentioned and it is contended that Janardan Malwade used iron bar

and Ganesh Malwade used handle of spade and due to that he sustained injuries to his right hand and other parts of the body. It is contended that he was shifted to the rural hospital from the spot of offence by his relatives and he was referred to Civil Hospital, Ahmednagar and then he was indoor patient from 16th August, 2019 to 18th September, 2019 in Civil Hospital. It is contended that due to these circumstances, he could not give report immediately. It is his contention that in the incident he sustained fracture injury to his right finger and he sustained other injuries also. On the basis of FIR dated 22nd September, 2019, the crime came to be registered for the aforesaid offences. Copies of statements of informant and his wife are there and supplementary statement is also there. There are statements of other persons, who helped the informant to shift to rural hospital. There is MLC prepared by the rural hospital showing that the informant was examined on 15th August, 2019 and three injuries like abrasions and blunt trauma were found. There was a fracture of distal phalynx of one finger of right hand, index finger and that was grievous injury.

4 The learned counsel for Applicants submitted that the spot *Panchanama* shows that on the spot, which was shown, there was water on the day of spot *Panchanama*, which was prepared on 23rd September, 2019, which was back water of Jayakwadi dam and so it

cannot be believed that the incident took place at that point. This contention cannot be accepted at this stage. The spot *Panchanama* shows that the spot, which was situated at the distance of 200 feet from the place where *Panchas*, police and informant were standing, was shown as spot of offence. The water had come upto that level and so the spot was under water and the crops standing had also gone under the water. There is possibility that subsequently water had come there. So, this contention made by the learned counsel for Applicants cannot be considered at this stage. It will be a matter of appreciation of the evidence by the Trial Court.

5 Another submission was made by the learned counsel for Applicants that the informant is in the habit of giving false reports to police. He submitted that on 7th October, 2019 some villagers had given complaint against the informant about that habit and copy of the said representation is produced. It appears that more than 30 persons had signed on the said representation. Such contentions also cannot be considered at this stage. This Court holds that there is more than sufficient material against the Applicants at this stage to make out *prima-facie* case for aforesaid offences. Thus, no relief can be granted. In the result, the application stands dismissed.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE, J.]