

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1571 OF 2021

- 1] Rahul S/o Dattu Ghuge,
Age : 28 years, Occu : Service,
R/o Devpul, Post Wasadi, Tq. Kannad,
Dist. Aurangabad, at present
Adarsha Colony, Kannad,
Tq. Kannad, Dist. Aurangabad
- 2] Parmeshwar S/o Pundlik Ghuge,
Age : 26 years, Occu : Service
- 3] Yogesh S/o Dattu Ghuge,
Age : 33 years, Occu : Agril.
- 4] Dattu S/o Ashruba Ghuge,
Age : 60 years, Occu : Agril.
- 5] Durgabai w/o. Dattu Ghuge,
Age : 55 years, Occu : Household,
- 6] Manda w/o. Yogesh Ghuge,
Age : 26 years, Occu : Household,
Nos. 2 to 6 All R/o. Devpul,
Post Wasadi, Tq. Kannad,
Dist. Aurangabad.

... Applicants
(Orig. Accused No.1 to 6
as shown in FIR)

VERSUS

- 1] The State of Maharashtra
Through Police Station,
Pishor, Dist. Aurangabad.
- 2] Bhagwan s/o. Namdeo Ghuge,
Age : 32 years, Occu. Agril.,
R/o. Devpul, Post Wasadi,
Tq. Kannad, Dist. Aurangabad

... Respondents
(Resp. No.2 is orig.
informant)

...
Mr. S. J. Salunke, Advocate for applicants
Mr. M. M. Nerlikar, APP for respondent no.1 – State
Mr. D. M. Shinde, Advocate for respondent no. 2
...

AND
CRIMINAL APPLICATION NO. 1665 OF 2021

- 1] Laxman S/o Sheshrao Ghuge,
Age 36 years, Occu : Agril.,
- 2] Namdeo S/o Baburao Ghuge,
Age 56 years, Occu : Agril.,
- 3] Dinesh S/o Sheshrao Ghuge,
Age 24 years, Occu : Agril.,
- 4] Samadhan S/o Namdeo Ghuge,
Age 21 years, Occu : Agril.,
- 5] Sandeep S/o Namdeo Ghuge,
Age 19 years, Occu : Agril.,
- 6] Ganesh S/o Sheshrao Ghuge,
Age 28 years, Occu : Agril.,
- 7] Ushabai W/o Walmik Tathe,
Age 32 years, Occu : Household,
- 8] Shashikalabai W/o Sheshrao Ghuge,
Age 73 years, Occu : Household,

All R/o. Devpul, Post Wasdi,
Tq. Kannad, Dist. Aurangabad.

... Applicants
(Accused No.1 to 8)

VERSUS

- 1] The State of Maharashtra,
Through Police Station,
Pishor, Dist. Aurangabad.
- 2] Dattu S/o Ashruba Ghuge,
Age : 61 years, Occu. Agril.,
R/o. Devpul, Post Wasadi,
Tq. Kannad, Dist. Aurangabad

... Respondents
(Resp. No.2 is orig.
Informant)

...

Mr. D. M. Shinde, Advocate for applicants
 Mr. A. S. Shinde, APP for respondent no.1 – State
 Mr. S. J. Salunke, Advocate for respondent no. 2

...

**CORAM : SUNIL P. DESHMUKH
AND
N. B. SURYAWANSHI, JJ.**

DATE : 3rd SEPTEMBER, 2021

PER COURT :

1. Both these Applications are filed seeking quashing of cross-complaints lodged by the parties against each other.
2. Criminal Application no. 1571 of 2021 seeks quashing of the FIR in crime no. 136 of 2021 registered with Pishor Police Station for the offences punishable under section 307, 120B, 326, 325, 324, 323, 143, 147, 148, 149, 504, 506, 188, 269, 270 of the Indian Penal Code and under section 51(b) of the Disaster Management Act, 2005 and clause 11 of the Maharashtra Covid-19 Guidelines registered at the behest of respondent no. 2. It is alleged in the FIR in question that on 23-05-2021, when he was present in the field along with his father at about 12.30 noon, the applicants-accused came there and assaulted him, questioning as to why complaint is lodged against Rahul Ghuge and Rahul assaulted his father with axe. Laxman Ghuge was assaulted by Parmeshwar Ghuge with axe and wooden log. All the applicants assaulted the informant, his father and the neighbouring agriculturists who came to intervene in the quarrel.

3. Criminal Application no. 1665 of 2021 seeks quashing of the FIR in crime no. 131 of 2021 registered with Pishor Police Station, District – Aurangabad lodged by respondent no. 2 for the offences punishable under section 324, 323, 143, 147, 149, 504, 506, 269, 270, 188 of IPC, under section 51(b) of the Disaster Management Act, 2005 and clause 11 of the Maharashtra Covid-19 Guidelines. It is alleged in the FIR in question that on 23-05-2021, at about 12.30 noon, when the informant went in a bullock-cart to agricultural field gat no. 45, all the applicants came there and questioned him as to why he is taking bullock-cart from their field. Applicant no. 1 assaulted on the head of informant with wooden log due to which he received bleeding injury. Applicant no. 2 gave stick blows on the informant's back, neck and waist. When informant's son – Yogesh tried to stop them, applicants no. 3 to 6 assaulted him with fist and kick blows. At that time, applicants no. 7 and 8 abused them.

4. Both the applications are filed seeking quashing of the FIRs (cross-cases) as the parties have amicably settled their dispute and have filed affidavits to that effect in both the matters. The parties are residents of the same village and are adjoining land owners. They have amicably settled their dispute and have compromised the matter with a view to maintain peace and tranquillity in the village, they have buried their hatchet and they

have agreed to live peaceful life by maintaining good relations. They, therefore, by these Applications, seek quashing of the FIRs on the ground of the compromise.

5. Parties are present in the Court and they have admitted that there is settlement arrived at between them. They are identified by their respective Advocates. The affidavits of injured witnesses is also filed on record admitting the settlement of the matter.

6. Heard learned Advocate for the applicants and learned Additional Public Prosecutor. With the assistance of the learned APP, we have gone through the investigation papers. In crime no. 131 of 2021, the injury certificate of Namdeo Ghuge shows that he has suffered blunt trauma on left forearm 3 X 2 cm and on left shoulder 3 X 2 cm. Though injury no. 1 is stated to be grievous in the injury certificate, it is difficult to accept the said opinion in the absence of any supporting material to show that the said injury falls within the definition of section 324 of the Indian Penal Code. Learned APP fairly accepts this position.

Injury certificate in Crime no. 131 of 2021 indicates that the injuries suffered by Dattu Ghuge of contused lacerated wound is simple and injury suffered by Yogesh Ghuge were in the form of blunt trauma and abrasion which are of simple in nature as per the injury certificate.

7. Perusal of injury certificate of Laxman Ghuge (in crime no. 136 of 2021) shows that he has suffered simple injuries in the form of blunt trauma and abrasion on his legs. Injury certificate of Dinesh Ghuge also shows that he has suffered blunt trauma and abrasion i.e. simple injuries as per the injury certificate.

Considering the simple nature of injuries suffered by Laxman Ghuge on legs and further considering the simple nature of injuries suffered by Dinesh, section 307, 324 and 326 is not attracted in the facts of the present case.

8. Considering the injury certificates issued to the injured persons in both the cases, it is clear that all have suffered simple injuries and, therefore, section 307, 324 and 326 are not applicable in both the matters.

9. Taking into consideration the amicable settlement arrived at between the parties and as the parties in both the matters are resident of same village and are adjoining land owners, since they have recorded the compromise immediately after lodging of the FIR, it appears that they have buried their hatchets and agreed to live peaceful life by maintaining good relations, we therefore are inclined to accept the compromise arrived at between the parties and this Court is of the opinion that continuation of the proceedings would be an abuse of process of law. In our opinion, it

would be in the interest of justice to quash the proceedings.

Hence, the following order :-

ORDER

- I) Criminal Application no. 1571 of 2021 is allowed.
- II) FIR and further proceedings of Crime no. 136 of 2021 registered with Pishor Police Station, Aurangabad for the offences punishable under section 307, 120B, 326, 325, 324, 323, 143, 147, 148, 149, 504, 506, 188, 269, 270 of the Indian Penal Code and under section 51(b) of the Disaster Management Act, 2005 and clause 11 of the Maharashtra Covid-19 Guidelines is hereby quashed and set aside.
- III) Applicants in Criminal Application no. 1571 of 2021 are directed to deposit costs of Rs. 15,000/- with the High Court Advocates' Bar Association, Aurangabad within a period of one week from today.
- IV) Criminal Application no. 1665 of 2021 is hereby allowed.
- V) FIR bearing Crime no. 131 of 2021 registered with Pishor Police Station for the offences punishable under section 324, 323, 143, 147, 149, 504, 506, 269, 270, 188 of IPC, under section 51(b) of the Disaster

Management Act, 2005 and clause 11 of the Maharashtra Covid-19 Guidelines is hereby quashed and set aside.

VI) The applicants in Criminal Application no. 1665 of 2021 to deposit costs of Rs.15,000/- with the High Court Advocates' Bar Association Library at Aurangabad within a period of one week from today.

[N. B. SURYAWANSHI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/