

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

CRIMINAL APPLICATION NO.2674 OF 2019

SUHAS S/O. BHALCHANDRA MANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mrs. Uma S. Bhosale.

APP for Respondent/State: Mr. A. S. Shinde.

Advocate for Respondent No.2 : Mr. P. P. More.

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CORAM : T. V. NALAWADE &
B. U. DEBADWAR, JJ.

DATE : 21st January, 2021.

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

. The application is filed for relief of quashing and setting aside Crime No.82 of 2019, registered with Latur Rural Police Station, District Latur, for the offences punishable under Sections 326, 452, 323, 143, 147, 148, 149 and 504 of the Indian Penal Code and Section 135 of the Bombay Police Act.

2 Both the sides are heard.

3 The crime is registered on the basis of report given by

Respondent No.2, Shilawanti Mane. In the FIR, she has described the incident dated 24th May, 2019. It is her contention that on that day at about 02:00 pm, when her two sons, her two brothers and the family of the two brothers were present in the house, the persons like Bhalchandra Mane, Suhas Mane, Mamlakar Idekar, Amol Mane, Sachin Baride, Dayanand Baride, Kashibai Baride and Anuradha Katale (Baride) entered her house. It is her contention that they picked up quarrel with them and they said that they will not return the possession of room, which was given to Arjun Baride by way of lease and for running fair price shop. It is contended that when the informant and her family said that the room belongs to her and the Civil Court had also decided the matter in their favour and they need to vacate the room, the aforesaid persons assaulted the informant, sons of informant, brothers and families of brothers of the informant. It is her contention that Bhalchandra gave blow of axe on the head of informant and caused bleeding injury, Kamlakar Idekar assaulted Ashok, elder son of informant by stick and he assaulted Ashok on his private part also. It is her contention that her brothers and families of brothers were also assaulted. It is her contention that during the incident, she lost gold *Mangalsutra* and gold ring. It is her contention that on 24th May, 2019, she received treatment in Government hospital and after the treatment, she gave the report. The report was given on 29th May, 2019.

4 The submissions made and the record show that on one hand, on the basis of report given by Respondent No.2, the crime at C.R. No.82 of 2019 came to be registered for the aforesaid offences and on the other hand, on the basis of report given by Dayanand Baride, Applicant No.4, on 29th May, 2019, the crime at C.R. No.83 of 2019 came to be registered for the offences punishable under Sections 452, 323, 324, 149, 336, 427 etc. of the Indian Penal Code and Section 135 of the Bombay Police Act. In the FIR given by Dayanand Baride, he has made similar allegations, but he has contended that the incident took place on 24th May, 2019 at about 01:00 pm to 02:00 pm, but in his house where his mother Kashibai and sister Anuradha were present. He has contended that when they were being assaulted by the persons of the side of Shilawanti, informant of C.R. No.82 of 2019, the persons from village like Ravan Mane, Tukaram Bhatalwande, Amol Mane, Avinash Bhatalwande and others came there and they separated the quarrel. Thus, most of the persons, who are shown as accused in C.R. No.82 of 2019, are shown as witnesses in C.R. No.83 of 2019. It can be said that counter FIRs were given by the two sides and the crimes came to be registered.

5 The learned counsel for Applicants submitted that the relief can be given atleast to Applicant Nos.5 and 6, who are ladies by

presuming that they must not have participated in the incident. There is use of Section 149 of the Indian Penal Code and the allegations are made that all the accused together entered illegally the house of informant and committed the offence. In addition to that, there is circumstance that presence of most of the Applicants in the incident is admitted by giving counter FIR. Due to these circumstances, this Court holds that it cannot be said that there is no material at all against the present Applicants. Some incident did take place. In the result, the following order is passed:

ORDER

The application stands dismissed.

[B. U. DEBADWAR, J.]

[T. V. NALAWADE, J.]

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