

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

CRIMINAL APPLICATION NO.6931 OF 2017

GANGAMANI MAROTI ROYLAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Gaurav L. Deshpande.

APP for Respondent/State: Mr. B. V. Virdhe.
...

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 of C.R. No.201 of 2017, registered with Markhel Police Station, District Nanded, for the offences punishable under Sections 353 read with 34 of the Indian Penal Code.

2 Both the sides are heard.

3 Copy of FIR is produced on record and it shows that the crime came to be registered on the basis of report given by Sectional Engineer of PWD Degloor, Shri B. S. Jaybhaye. It is his contention

that when on 27th October, 2017 for implementation of project as per the order of the Government, he was present near Hemadpanthi Siddheshwar Temple of village Hottal, Tahsil Degloor, at about 03:00 pm, two residents of Hottal like Gangamani Maroti Rohilawar and Gopabai Raju Rohilawar, present Applicants came there and they picked up quarrel with him. It is his contention that they started saying that the temple and the space surrounding the temple was their ancestral property and the officer should not work at that place. It is his contention that they picked up stones, pelted stones at the machines, which were being used for the project purpose and they virtually compelled to stop the Government work. It is contended that threats were given that they will commit suicide. The incident was witnessed by other public servants and their names are given in the FIR. In view of the nature of allegations, crime came to be registered for aforesaid offence.

4 It appears that the Central Government has created a project for development of area of Hemadpanthi Siddheshwar Temple, situated at Hottal and that is being done under the Megha Tourism Circuit Project. The project was going on, on the area of more than 7 acres. It is the contention of the Applicants that this temple is different from other temple, which belongs to the Applicants and no acquisition proceeding was started to acquire their land and so they were there to

stop the work. The learned counsel for Applicants submitted that throwing stones at the machines of PWD does not amount to interference in the discharge of duty of public servants.

5 Specific allegations made by the Sectional Engineer are already quoted. They are sufficient to make out *prima-facie* case for the offence punishable under Section 353 of the Indian Penal Code. It cannot be said that there is no material at all and on the contrary the Applicants are admitting that they had gone there and they wanted to stop the work as they believed that the land belongs to them and the Government needs to acquire the land first. At present, there is nothing of that sort with the Applicants except copy of civil litigation, Regular Civil Suit No.44 of 2016 filed by Gangamani for relief of injunction. Copy of order made on Exhibit-71 shows that only the Commissioner was appointed by the Civil Judge Senior Division, Biloli on 24th October, 2017. In view of these circumstances, this Court holds that no relief can be granted in favour of the Applicants. The contentions made in the plaint also show that the proceeding, which was filed for succession was dismissed and they have filed appeal. The copy of order made on injunction application filed by Gangamani shows that temporary injunction application came to be rejected on 18th September, 2017 and that order also shows that there was nothing with Gangamani to show that right from forefather the disputed

property was owned and possessed by these persons. 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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