

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 1705 OF 2021

Swapnil Janaba Bokade and Ors.

... Petitioners

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Laxman Kalel for the Petitioners

Mr. J.P. Yagnik, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 27 OCTOBER 2021

P.C. :-

Heard the learned Counsel for the Petitioner and the learned APP for the State.

2. By this Petition the Petitioner has sought to quash the complaint No. 77 of 2019 registered under Section 379, 384, 427, 447, 504, 506 r/w. 34 of the Indian Penal Code.

3. The Complainant (who is not joined as a party Respondent) has filed a complaint on 26 February 2019 stating that the Petitioner and the Complainant have their agricultural fields adjoining to each other. The Complainant filed a Regular Civil Suit in the Civil Court at Chandgad, District – Kolhapur wherein the learned Civil Judge had granted temporary injunction on 1 December 2018. When on 5 December 2018 the Complainant went to harvest the crop, the Petitioners threatened him and stated that they will not obey the order of the Court. The Complainant registered an FIR and also sought police protection which was granted on 13 December 2018. It is stated that meanwhile, the Petitioners kept on harvesting the crop inspite of the injunction, falsely representing that they have obtained the stay in the Civil Miscellaneous Appeal. With these assertions, the complaint has been filed.

4. The learned Counsel for the Petitioner submitted that the dispute is purely a civil dispute and can be quashed under the inherent powers of the Court. The learned Counsel relied upon the decision of the Supreme Court in the case of *Mitesh Kumar J. Sha vs. The State of Karnataka and Ors.*¹ in support of his submission. That if the FIR arises from purely a dispute of civil nature it can be quashed is a settled position, but in this case it is not only a civil dispute but as stated in the complaint a total defiance to the order of

¹ LL 2021 SC 592

the Court and orders of police protection, it cannot be said that there is no criminality in this allegation and it is only a civil dispute. No case is made out for quashing of the complaint.

5. The Writ Petition is accordingly rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.