

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 324 OF 2015

1. Ramesh s/o. Deorao Rahate,
Aged about 50 years,
Occ.: Police Patil,
2. Ganesh s/o. Deorao Rahate,
Aged – Major,
Occ. Agriculturist,
3. Rishikesh s/o. Ramesh Rahate,
Aged about 17 yrs,
Occ. Student,

Applicant No.3 is minor and
thus represented by his
natural guardian father i.e.
applicant No.1

All R/o. Manegaon, Tah.
Shegaon, Distt. Buldhana.

APPLICANTS.

-----VERSUS-----

1. State of Maharashtra
Through P. S.O. Shegaon,
(Gramin), Distt. Buldhana.
2. Mohan s/o. Kashiram Bardiya,
Aged about 30 years, Occu.:
Agriculturist & Business,
R/o. Manegaon, Tah.
Shegaon, Distt. Buldhana.

NON-APPLICANTS.

Shri S.V.Sirpurkar, Advocate for the applicants.

Shri N.S.Rao, APP for non-applicant no.1.

Shri M.P.Kariya, Advocate for non-applicant no.2.

**CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED: 09.03.2021**

ORAL JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants have challenged registration of the First Information Report No.13/2015 dated 7.4.2015 registered with the non-applicant no.1 - Police Station for offences punishable under Sections 384, 504 and 506 read with Section 34 of the Indian Penal Code.

2. The First Information Report came to be registered against the applicants with the accusations that the applicants came in the field of the non-applicant no.2 where the work of brick kiln was going on. The applicants took photographs of the brick-kiln. The non-applicant no.2 obstructed the applicants from taking photographs and the applicants threatened and abused the non-applicant no.2. It is alleged that the applicants demanded an amount of Rs.50,000/- for not making the complaint against the non-applicant no.2 before the Tahsildar and when the non-applicant no.2 refused to pay the said amount, the applicants threatened the non-applicant no.2 and also abused him in filthy language.

3. The applicants, by way of present application, have challenged registration of the First Information Report. This Court on 22.6.2015 issued notice to the non-applicants and on 21.6.2016 issued Rule and granted interim relief in terms of prayer clause (ii) of the application.

4. The non-applicant no.1, in pursuance of the notice, filed reply stating that during investigation, the Investigating Officer recorded statements of seven witnesses, in addition to the non-applicant no.2. It is stated that all these witnesses have specifically stated that the accused persons came on the spot and took photographs of the brick kiln and demanded amount of Rs.50,000/- for not making complaint before the Tahsildar. It is stated that the Investigating Officer has recorded statements of seven persons, who are running businesses of the Fair Price Shop, Gharkul Scheme and running business under the Government Scheme and they have stated that the accused were demanding money from them, otherwise they threatened to make complaint before the Authority. It is, therefore, submitted that the material on record is sufficient to prosecute the applicants.

5. The non-applicant no.2 has filed reply and stated that since the non-applicant no.2 belongs to Potter community, the non-

applicant no.2 has right to excavate soil of 500 brass and by using said right he was carrying on businesses of brick kiln. He reiterated the allegations in the First Information Report and submitted that there is sufficient material to implicate the applicant in the crime alleged against them.

6. We have carefully considered the allegations in the First Information Report alongwith the case diary produced by the learned Additional Public Prosecutor. On the assessment of allegations in the First Information Report and the statements of the witnesses, it appears that witnesses have specifically stated about the involvement of the applicants in the offences alleged against them. The other witnesses, who are running businesses like Fair Price Shop, Gharkul Scheme and other Government Schemes have also stated that the applicants had demanded various amount from them. We are therefore satisfied that the material placed before us makes out prima facie case against the applicants, which is required to be decided by conducting trial. At this stage, we cannot analyse and meticulously consider the evidence and anticipate whether it will end in conviction or acquittal. This is not a stage to decide whether there is any truth in the allegations made but to form an opinion whether on the basis of the allegations of cognizable offence, as alleged, prima facie case is made out or not. The guilt or

otherwise of the applicants can be proved only after conducting full-fledged trial. In view of the allegations in the First Information Report and considering the statements recorded by the Investigating Agency produced on record in the form of case diary, we are satisfied that there is prima facie material requiring trial against the applicants.

7. We are, therefore of the view that we cannot persuade ourselves to hold that the continuance of the proceedings would result in abuse of process of the Court. Therefore, we find no merit in the application and the same is rejected.

8. Rule is made absolute in the above terms.

JUDGE

JUDGE