

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

CRIMINAL APPLICATION (APL) NO.626 OF 2018.

Pralhad Badhu Sable,
Aged 72 years, Occ. Agriculturist,
R/o. Ramnagar, Tq. Digras,
Dist. Yavatmal.

....APPLICANT

----- **VERSUS** -----

1. State of Maharashtra,
Through P. S. O., Police Station,
Digras, Tq. Digras, Dist. Yavatmal.
2. Harsingh Badusingh Sable,
Aged 69 years, Occ. Agriculturist,
R/o. Viratnagar, Digras,
Tq. Digras, Dist. Washim.

.... NON-APPLICANTS

Shri Ajay Tote, Advocate for the applicant.
Shri S.S. Doifode, A.P.P for the non-applicant No.1/State.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 19.06.2021.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. Heard.
2. Rule. Rule made returnable forthwith.
3. This is an application under Section 482 of the Code of Criminal Procedure, challenging registration of the First Information Report No.0314/2018 dated 20.06.2018 registered with the non-applicant No.1 - Police Station for the offences under Section 341 and 506 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicant with the accusations that when the non-applicant No.2 was sowing seeds at Survey No.28 admeasuring 1.71 H.R. the applicant alongwith 5-6 other persons stopped him from sowing the seeds and restrained the non-applicant No.2 from entering the said agricultural land. It is further alleged that the applicant threatened the non-applicant No.2 that he will kill the non-applicant No.2.

5. The applicant therefore, challenged registration of the First Information Report by filing present application. This Court on 19.07.2018 issued notice to the non-applicants.

6. The non-applicant No.1 filed reply stating that the applicant stopped the non-applicant No.2 from sowing seeds in agricultural land bearing Survey No.28 admeasuring 1.71 H.R.. It is further stated that the applicant restrained the non-applicant No.2 from entering said land and threatened that he will kill the complainant. It is stated that investigating agency has recorded statement of witnesses which implicates the applicant.

7. We have carefully considered the allegations in the First Information Report and affidavit in reply filed by the non-applicant No.1. On careful consideration of the First Information Report alongwith the documents produced by the applicant, it appears that

the Naib Tahsildar (Revenue), Digras by order dated 03.05.2018 in proceeding under provisions of Rule 31 of the Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971 held that it is the applicant who is in actual possession of the land in question. It is undisputed that the said order is in respect of the land in respect of which the First Information Report has been registered. Apart from the order under Rule 31 of the said Rules, the applicant has filed Regular Civil Suit No.7/2010 in respect of the land in question which is pending.

8. On overall perusal of the order passed by the Tahsildar under Rule 31 of the said Rules and pendency of Civil Suit in relation to the land in question, we are satisfied that the dispute between the applicant and the non-applicant No.2 essentially a civil dispute which needs to be resolved before the Civil Court. In the light of order passed by the Tahsildar and pendency of the civil suit between the applicant and the non-applicant No.2, the prosecution launched by non-applicant No.2 is not a legitimate prosecution. We are therefore, satisfied that the continuation of prosecution against the applicant would amount to abuse of process of Court.

9. We therefore, pass the following order :

The First Information Report bearing Crime No.0314/2018 dated 20.06.20218 registered with the non-applicant

No.1 – Police Station for the offences punishable under Section 341 and 506 of the Indian Penal Code is quashed and set aside qua the applicant only.

Rule is made absolute in the above terms.

CRIMINAL APPLICATION (APPP) NO.1254/2018.

In view of disposal of main application, Criminal Application (APPP) No.1254/2018 for dispensing with filing of some type copies in civil suit does not survive. Hence, it is disposed.

JUDGE

JUDGE

RGurnule