

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

CRIMINAL APPLICATION (APL) NO. 1042/2018

- 1] **Sunil S/O Gulabchand Saraf,**
Aged about 54 years, Occ. Agriculture,
R/O. Madan Plot, Khamgaon, Tah. Khamgaon,
Dist. Buldhana
- 2] **Vilas S/O Sukhdev Sasane,**
Aged about 44 years, Occ. Agriculture,
R/o. Macchidrakhed, Tah. Shegaon,
Dist. Buldhana
- 3] **Rahul S/O Sheshrao Khandare,**
Aged about 37 years, Occ. Agriculture,
R/o. Macchidrakhed, Tah. Shegaon,
Dist. Buldhana
- 4] **Laxman S/O Dayaram Sananse,**
Aged about 47 years, Occ. Agriculture,
R/o. Paarkhed, Tah. Khamgaon,
Dist. Buldhana

.... **APPLICANT(S)**

// VERSUS //

- 1] **State Of Maharashtra,**
Through its Police Station Officer,
Police Station Jalambh, Dist. Buldhana
- 2] **Mohini W/O Divakar Kadale,**
Aged about 40 years, Occ. Agriculture,
R/o. Taroda-D, PS Jalamb, Tah. Shegaon,
Dist. Buldhana

.... **NON-APPLICANT(S)**

Shri A.P. Chaware, Advocate for the applicant(s)
Ms. Mayuri Deshmukh, APP for the non-applicant no.1

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
FEBRUARY 11, 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 F.I.R. No. 04/2017 dated 04/01/2017 and consequent Charge-sheet No. 15/2017 filed before the Judicial Magistrate First Class, Court No. 2, Shegaon, Dist. Buldhana in R.C.C. No. 65/2017 for the offences punishable under Sections 354, 294, 143, 147 and 506 of the Indian Penal Code. The first information report came to be registered against the applicants on the accusations that the applicants threatened the non-applicant no. 2 that they will offend the modesty of the non-applicant no. 2 and also abused the non-applicant no. 2. It is further alleged that the applicant no. 1 caught hold the hand of the non-applicant no. 2 and has therefore offended the modesty of the non-applicant no. 2.

4] The applicants have therefore filed the present application challenging registration of the first information report. This Court on

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25/02/2019 issued notice to the non-applicants for final disposal. The non-applicant no. 1 in pursuance of the notice issued by this Court has filed reply and has stated that as per the statement of the non-applicant no. 2, the incident had occurred on 04/01/2017 at about 3:30 to 4:00 pm. It is further stated that the Investigating Officer has recorded the statements of two witnesses who have supported the case of the non-applicant no. 2.

5] The non-applicant no. 2 is served with the notice of this criminal application but has not appeared either personally or through Advocate.

6] We have carefully considered the contents of the first information report. Learned advocate for the applicants invited our attention to R.C.S. No. 25/2016 where the husband of the non-applicant no. 2 is party. He also invited our attention to the order dated 22/12/2016 restraining the husband of the non-applicant no. 2 from disturbing possession of the applicant no. 1 over the suit property. The first information report has been registered on 04/01/2017. In the backdrop of the order restraining the husband of the non-applicant no. 2 from entering into the property in dispute, it appears that the allegations in the first information report are vague as no specific role is attributed to any of the applicant. We are therefore satisfied that the prosecution launched against the applicants is not

a legitimate prosecution, particularly, in view of the fact that there is a dispute of property in between the non-applicant no. 2, her family members and the applicant no. 1. Therefore, continuation of the prosecution against the applicants would amount to abuse of process of the Court.

7] Hence, the following order:-

F.I.R. No. 04/2017 dated 04/01/2017 and consequent Charge-sheet No. 15/2017 filed before the Judicial Magistrate First Class, Court No. 2, Shegaon, Dist. Buldhana in R.C.C. No. 65/2017 for the offences punishable under Sections 354, 294, 143, 147 & 506 of the Indian Penal Code are quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE