

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 495 OF 2022

1. Chatrabhuj S/o. Dadarao Shinde,
Age. 50 years, Occ. Agricultural,
R/o. Shindewadi, Tq. Mahajan,
Dist. Beed.

2. Shivaji S/o. Chatrabhuj Shinde,
Age. 25 years, Occ. Agricultural,
R/o. Shindewadi, Tq. Mahajan,
Dist. Beed.

.... Applicants

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Police Station, Sirsala Police Station,
Tq. Parli (Vaijnath), Dist. Beed.

2. Sakharam S/o. Ramkisan Shinde,
Age. 54 years, Occ. Agricultural,
R/o. At present Jaigaon Shiwar,
Tq. Parli (Vaijnath), District Beed.

... Respondents

Advocate for Applicants : Mr. D.B. Sadaphule and Mr. G.K. Dahale
APP for State : Mr. S.D. Ghayal

**CORAM : SMT. VIBHA KANKANWADI &
RAJESH S. PATIL, JJ.**

DATE : 05th SEPTEMBER, 2022.

ORAL JUDGMENT [PER : RAJESH S. PATIL, J.] :-

1. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicants are praying for quashing of

FIR bearing Crime No. 25/2021 registered with Sirsala Police Station, Taluka Parli (Vaijnath), District Beed, for the offences punishable under Sections 394, 336, 506 read with 34 of the Indian Penal Code.

A. FACTS :

2. The respondent No. 2 has lodged report which is registered as Crime No. 25/2021. The FIR states that the Informant has 7 acres land in Jaigaon Shiwar, Tq. Parali (Vaijnath) in Gut No. 164. he used to reside at agricultural land by constructing small house. All household articles like Cupboard, TV, etc., are kept in house. During night time he used to stay there for protection of field. On 23.02.2021 at about 12:45 a.m. while informant was in sleep at his farm, dogs were barking loudly. Due to said noise, he woke up and at that time he saw that accused / applicant Nos. 1 and 2 and one person looking like Tanhaji and one unknown person came to them by taking sickle and knife. They have demanded keys of cupboard by threatening him by sickle and knife. When he refused to do so, it is alleged that Shivaji Shinde attempted to attack on informant with knife on his stomach which he was able to save himself from the attack of the knife blow. He received attack of knife blow below head of left side under ear. Chhatrabhuj kept sickle over his throat and those two unknown persons took keys from his pockets by holding him and forcibly took cash of Rs. 20,000/- which were notes of rupees five hundred; and ornaments worth of Rs. 6,000/- viz. earrings of women from the cupboard. On hearing the shouts of informant's, one Manikrao Khandekar and his brother came there. Accused persons started pelting stones with an intention to threat the people so that nobody should follow them. After that informant went to lodge complaint to Police Station along with his son. There was injury to his

head hence medical memo was given to him. After returning back from treatment, he has given the complaint which is registered as FIR No. 25/2021.

3. The applicants being dissatisfied by registration of FIR No. 25/2021 against them, the applicants have filed this criminal application under section 482 of the Criminal Procedure Code, before this Hon'ble Court for quashing of the FIR. The applicants case is that the FIR No. 25/2021 came to be registered as a counterblast to an earlier FIR No. 26/2021 which is registered by the wife of applicant No. 1 against the informant.

B. SUBMISSION OF PARTIES :

4. Heard learned Advocate Mr. D.B. Sadaphule and Mr. G.K. Dahale for the applicants and learned APP Mr. S.D. Ghayal, for the respondent No. 1.

5. Learned Advocate for the petitioners submitted that the applicants were not present on the spot of incident at the time of alleged incident. The police authority could not recover or discover from the custody of the applicants during investigation at the time of Police Custody Remand. The applicants have no criminal antecedents. On the contrary the applicant No. 2 had registered another FIR No. 284/2020 dated 24.11.2020 under Section 307 of IPC against the informant.

6. He further submits that the allegations made in the FIR bearing No. 25/2021 if are taken at their face value and accepted in their entirety the same do not, *prima facie*, constitute any offence or make out

any case as against the present applicants. The FIR, *prima facie*, does not disclose the essential ingredients of the charges levelled against the applicants. He, therefore, prays that the FIR may be quashed and set aside.

7. Learned APP Mr. S.D. Ghayal, on the other hand submitted that specific allegations have been made against the applicants. The FIR filed by applicant No. 1's wife is a counter blast to the Informant's FIR. Therefore, there is no question of quashing the FIR at this stage and the criminal application may be rejected.

C. ANALYSIS :

8. In the Criminal Application, amongst the various grounds taken up by the applicants have stated in ground No. (X) that applicant No. 2 has registered another FIR No. 284/2020 dated 24.11.2020, under Section 307 of IPC against the informant. However, the applicants have not produced on record the copy of such FIR No. 284/2020, so also the applicants have not clarified the further status of FIR No. 284/2020, dated 24.11.2020. The applicants are seeking to quash FIR No. 25/2021 dated 23.02.2021, wherein the applicants are shown as accused Nos. 1 and 2. It is applicants' case that because the applicant No. 1 has registered FIR against the Informant bearing FIR No. 26/2021, as wife of applicant No. 1 was seriously injured, therefore, the informant had fear that applicant No. 1's wife will lodge complaint against the informant, therefore, false FIR No. 25/20221 was registered by Informant. Since copies of both the FIR's are enclosed with the criminal application, it can be seen that the FIR No. 25/2021, is filed prior in time, then the FIR No. 26/2021, which is filed by the applicant No. 2's wife, on 24.02.2021.

9. Therefore, we are of the view that the FIR filed by applicant No. 2's wife on next day to informant's FIR does not make it false and fabricated. Thus, taking into consideration the report of respondent No.2, in the First Information Report, we are of considerable view that this is not a fit case where the powers of this Court under Section 482 of the Code of Criminal Procedure, should be exercised for quashing the FIR. The applicants, therefore, should face the trial. Hence, we pass the following order :

ORDER

Criminal Application stands rejected.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)