

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 CRIMINAL APPLICATION NO. 848 OF 2021

PRAMILA W/O. JOHN JADHAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. N. S. Shah
APP for Respondent-State : Mr. R. V. Dasalkar
Advocate for Respondent No.2 : Mrs. Rashmi S. Kulkarni h/f
Mr. Sanket S. Kulkarni

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CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 20th JANUARY, 2022

PER COURT:-

1. Heard finally with consent at admission stage.
2. The applicants-original accused are seeking quashing of FIR No. 550/2020 registered with Kopargaon (Rural) Police Station for the offence punishable under Sections 324, 323, 143, 147, 149, 504, 506 of IPC. The applicants are also seeking quashing of the proceedings vide R.C.C. No. 210 of 2021 pending before the Judicial Magistrate First Class, Kopargaon.
3. Learned counsel for the applicants submits that the allegations have been made mainly against co-accused Aashish and co-accused

Samson, whose application seeking quashing of the proceedings came to be withdrawn. Learned counsel submits that co-accused Aashish and the informant Vishal are the cousins. The incident had taken place without any premeditation. Though it has been alleged against the present applicants that they have extended beating to the informant by fist and kick blows, however, the allegations are general in nature without attributing any specific individual role. Furthermore, the medical certificate on record do not support the allegations about beating extended to the informant by fist and kick blows.

4. Learned counsel for respondent no.2 submits that names of the applicants are mentioned in the FIR with a specific role attributed to them. Though the incident began with a quarrel between the informant and co-accused Aashish, however, thereafter the co-accused and the applicants before the Court have formed an unlawful assembly and in prosecution of the common unlawful object of the assembly, extended beating to the informant. Learned counsel submits that specific role is ascribed to co-accused Aashish and co-accused Samson. However, the applicants herein, since members of the unlawful assembly, are also liable for the acts of the other members of the assembly. Learned counsel submits that the medical

certificate submitted along with the charge-sheet corroborates the allegations made in the complaint. There are injuries on the person of the informant suggesting beating extended to him by fist and kick blows. There is a triable case against the applicants. There is no substance in this criminal application and the same is liable to be dismissed.

5. Learned APP submits that there is a triable case against all the applicants and no case is made out for quashing of the proceedings. The criminal application is thus liable to be dismissed.

6. We have carefully gone through the contents of the complaint and also perused the charge-sheet. It appears that the incident had taken place on 06.12.2020 at about 2.45 p.m. It is informed to us that the informant and co-accused Aashish are residing in the same building. At the time of incident, informant came to know that co-accused Aashish was doing some repair work in his bathroom situated at ground floor and thus, he gave a call to co-accused Aashish to come out of the bathroom. It further appears that respondent no.2 has further informed co-accused Aashish that he should not do any repair work in the bathroom till the dispute pending before the Civil Court is resolved. It has been further alleged that co-accused Aashish

thereupon started giving abuses to the informant and further extended him beating, firstly gave fist blows on his face and further gave a blow of tile on his head. It is further alleged in the complaint that thereafter, all the applicants came there and extended beating to the informant with fist and kick blows. So far as co-accused Samson is concerned, it has been alleged that he has given a blow of wooden stick on the head of the father of the informant, namely Anil Devanand Jadhav. It is also alleged that both the co-accused i.e. Samson and Aashish have extended beating to said Anil Devanand Jadhav with the help of sticks. So far as the applicants before us are concerned, there was no formation of an unlawful assembly and the incident had taken place as of sudden. It appears from the allegations made in the complaint that when the informant gave call to co-accused Aashish and asked him to stop the repair work, the incident had taken place. It further appears from the allegations made in the complaint that all the applicants were in their house. The allegations as against the applicants are general in nature without specifying any individual role. Even if the allegations made against them are held to be proved, no case is made out since the medical certificate on record hardly supports the allegations made in the complaint against them. Thus, considering the entire aspect of the case, in the given set of allegations and considering the medical certificate on record, we are

inclined to quash the proceedings as against the applicants herein.

Hence, we proceed to pass the following order:

ORDER

- I. The criminal application is hereby allowed in terms of prayer clauses (B) and (B/1) to the extent of applicant Nos. 1, 3, 4 and 5.
- II. The criminal application is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

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