

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2074 OF 2021

- 1) Eknath s/o Ganpat Rathod,
Age 62 years, Occ. Agriculture.
- 2) Navnath s/o Ganpat Rathod,
Age 42 years, Occ. Agriculture,
Both r/o. Tigaon Tanda, Tq.
Wadwani, Dist. Beed.
- 3) Devidas s/o Eknath Rathod,
Age 27 years, Occ. Service,
R/o. Vidya Nagar, Barshi Road,
Beed, Tq. & Dist. Beed.
- 4) Bhausahab s/o Navnath Rathod,
Age 18 years, Occ. Education,
R/o. Tigaon Tanda, Tq. Wadwani,
Dist. Beed.

... **Applicants**
(Orig. Accused)

VERSUS

- 1) The State of Maharashtra,
Through the Police Officer,
Wadwanbi Police Station,
Tq. Wadwani, Dist. Beed.
- 2) Sunita w/o Bhanudas Rathod,
Age 35 years, Occ. Agril. &
Household, R/o. Tigaon, Tq.
Wadwani, Dist. Beed.

... **Respondents**

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Advocate for the Applicants : Mr. Gaikwad Kishor G.
APP for the Respondent No. 1 : Mr. S.P. Tiwari
Advocate for Respondent No. 2 : Mr. S.B. Bhosale

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 11.10.2022.

PER COURT : (PER : MANGESH S. PATIL, J.)

We have heard both the sides.

2. The applicants are seeking quashment of the charge-sheet and the Crime No. 137/2021, registered with Wadwani Police Station District Beed

for the offences punishable under Sections 354, 354-A, 324, 504, 506 read with Section 34 of the Indian Penal Code.

3. The respondent No. 2 filed the F.I.R. on 03.07.2021 alleging that while she was passing by the road the applicant No. 1 accosted her, started abusing her and even molested her. She also alleges that the rest of the applicants then arrived at the scene and assaulted her.

4. The learned advocate for the applicants submits that the allegations are false and concocted. The respondent No. 2 is the wife of the brother of applicant No. 1. There is a civil dispute going on between the two brothers. The F.I.R. has been lodged to falsely rope in all the family members. He would submit that the allegations against the applicant No. 1 are to some extent precise but that is not the case in respect of the other accused. It would be abuse of process of law if they are allowed to face the trial on the basis of unsubstantiated and concocted allegations. He would submit that the applicant No. 4 is a 12th standard student and the prosecution would adversely affect his carrier if he is made to face the charge.

5. The learned A.P.P. and the learned advocate for the respondent No. 2 oppose the application. They submit that the investigation is over and charge-sheet has been filed. Evidence has been collected. A statement of the victim has been recorded under Section 164 of the Code of Criminal Procedure. It would not be appropriate to let the applicants go scot free. An opportunity deserves to be given to the prosecution to substantiate the charges particularly when it is a case of molestation.

6. We have carefully gone through the papers and considered the rival submissions.

7. Accepting the allegations in the F.I.R. at their face value, the incident seems to have occurred without any premeditation. There was no allegation about the applicant Nos. 2 to 4 having accompanied the applicant No. 1

pursuant to some conspiracy or prior meeting of mind. They have arrived after the initial episode where the applicant No. 1 accosted the respondent No. 2 on her way. However, in her statement under Section 164 of the Code of Criminal Procedure the respondent No. 2 has conspicuously not even whispered about the applicant No. 2 Navnath much less attributing any role to him.

8. True it is that there is an injury certificate showing respondent No. 2 having sustained as many as three simple injuries. Though in the F.I.R. as also in the statement under Section 164 of the Code of Criminal Procedure she is attributing these injuries to the applicant No. 1, 3 and 4, the allegations against applicant Nos. 3 and 4 seem *ex facie* to be vague and omnibus. Going by the narration, the applicant No. 1 alone was proceeding and accosted the respondent No. 2 and thereafter molested her. It is not clear as to how and why the other applicants could have reached the spot. Be that as it may, the nature of the allegations against the applicant Nos. 2 to 4 are vague and omnibus. If at all, all of them had simultaneously assaulted her with kick and fist blows, she could not have escaped with three simple injuries.

9. Be that as it may, in our considered view, it would be sheer abuse of process of law if the applicant Nos. 2 to 4 are allowed to face the prosecution.

10. The Application is partly allowed to the extent of applicant Nos. 2 to 4. The charge-sheet and the consequent criminal case to the extent of applicant Nos. 2 to 4 is quashed and set aside.

11. The Application to the extent of applicant No. 1 is rejected.

(ABHAY S. WAGHWASE J.)

(MANGESH S. PATIL, J.)

mkd/-