

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

CRIMINAL APPLICATION NO.2827 OF 2022

- 1) Dilip @ Deepak Dattarao Kawade,
Age-36 years, Occu:Agriculturist,
- 2) Shaikh Fayum Shaikh Jilani,
Age-35 years, Occu:Labour,
- 3) Shaikh Jilani Shaikh Miya,
Age-64 years, Occu:Labour,
- 4) Prabhu @ Prabhakar Pandurang Kokare,
Age-28 years, Occu:Service,

All R/o-Bamni, Tq-Jintur,
District-Parbhani.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Officer In charge of
Bamni Police Station, Tq-Jintur,
Dist-Parbhani,
- 2) Ramesh Dagadu Tate,
Age-50 years, Occu:Service,
H.C. Buckle No.196,
Police Station Bamni,
Bamni, Tq-Jintur, Dist-Parbhani.

...RESPONDENTS

...
Mr.Gajanan S. Shete Advocate for Applicants.
Mr.M.M. Nerlikar, A.P.P. for Respondent No.1 – State.
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**CORAM: SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 20th SEPTEMBER, 2022

ORDER :

1. Present Application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing charge-sheet bearing R.C.C. No.40 of 2017 pending before the learned Judicial Magistrate First Class, Jintur, District-Parbhani arising out of First Information Report bearing Crime No.71 of 2014 dated 4th November 2014 registered with Bamni Police Station, Taluka-Jintur, District-Parbhani for the offence punishable under Sections 143, 147, 148, 149, 353, 332, 336, 448, 504, 427, 160 of the Indian Penal Code, under Section 7 of the Criminal Law Amendment Act, under Section 3 of the Prevention of Damage to the Public Property Act, 1984 and under Section 135 of the Mumbai Police Act.

2. Heard Mr. Shete, learned Advocate for the applicants and Mr. Nerlikar, learned APP appearing for respondent No.1. It is not even necessary to issue notice to respondent No.2.

3. At the outset it is to be noted that the First Information Report (for short "FIR") was filed by the Police Head Constable in his official capacity on 4th November 2014 against 118 persons. Names of all those 118 persons are appearing in the FIR. It appears that the investigation was pending for more than two years and then the charge-sheet came to be filed on 18th July 2016 and then the number has been given to the case in 2017. Now, only 4 out of those 118 accused are before us. At no earlier point of time the applicants had come before this Court. It is also to be noted that the copy of entire charge-sheet is also not filed by the learned Advocate appearing for the applicants. Why the applicants are approaching this Court belatedly is not properly explained at all. It was tried to be stated that the case is pending since 2017 and though the applicants are attending the Court, the trial has not commenced and the matter is unready for securing presence of the accused persons who are absent. This cannot be the ground on which the entire charge-sheet can be quashed and set aside.

4. If we consider various orders those have been passed by the learned Judicial Magistrate First Class, then it appears that certain accused persons have not caused their appearance and

non-bailable warrant has been issued against them. Against certain accused persons who are absconding since long, even proclamation has been issued under Section 82 of the Code of Criminal Procedure. When the option of getting the trial separated of the applicants is available, there is no question of quashment of either the FIR or the entire proceedings. The inherent powers of this Court under Section 482 of the Code of Criminal Procedure cannot be exercised.

5. For the reasons stated above, the Application stands rejected at the threshold.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE