

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2233 OF 2020

1. Sanjay s/o Ramji Chavan
2. Bhaurao s/o Babu Aadhe
3. Ganesh s/o Babu Aadhe
4. Devidas s/o Dhanu Chavan

.. Applicants

Versus

1. The State of Maharashtra
Through the Police Station Officer,
Partur Police Station,
Dist. Jalna.
2. Rameshwar s/o Gopa Rathod

.. Respondents

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Mr. Shirish M. Kamble, Advocate for applicants.
Mr. M. M. Nerlikar, APP for respondent No.1 - State.
Mr. Sandip P. Rathod, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : DECEMBER 12, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. By invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, the applicants have prayed for quashment of the FIR as well as the entire proceedings. It will not be out of place to mention here that after hearing both sides, when this Court expressed disinclination to grant any relief in favour of applicant No.1, learned Advocate for the applicants, on instructions,

seeks withdrawal of the application in respect of applicant No.1. Under such circumstance, the application stands disposed of as withdrawn as against applicant No.1. Matter to proceed only for the reliefs claimed by applicant Nos.2 to 4.

2. Heard learned Advocate Mr. Shirish M. Kamble for the applicants, learned APP Mr. M. M. Nerlikar for respondent No.1 - State and learned Advocate Mr. Sandip P. Rathod for respondent No.2.

3. The applicants stood prosecuted vide Crime No.231 of 2019 registered with Partur Police Station, Dist. Jalna for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of Indian Penal Code (for short "IPC"), on the basis of the FIR lodged by respondent No.2. Perusal of the FIR would show that presence of applicant Nos.2 to 4 is shown along with applicant No.1, however, no specific role has been attributed to them. It is stated that applicant No.1 had assaulted the informant with stick on his hand, legs and back. Further, perusal of the medical certificate would show that there are only two simple injuries in the form of contusions. If four persons would have assaulted the informant with stick, then the injuries could have been more. Further, the other witnesses, who were allegedly present there, have stated that present applicant Nos.2 to 4 had abused the informant in filthy language, however, the language or the abuses have not been given either in the FIR or by the witnesses. It can be seen that there is no immediate relationship

between applicant No.1 on one part and applicant Nos.2 to 4, then the question arises as to why it would have been told to the informant that he should not lodge a report against them in police station. There is no reference in the entire charge-sheet as to which police complaint they were referring to. Thus, even the motive appears to be absent. Another fact also to be noted is that the present applicant Nos.2 to 4 were the persons who were the signatory to the application given to Chief Engineer, M.S.E.D.C.L., Divisional Office, Jalna informing that the informant is the person who is illegally cutting the overhead wires and stealing it, thereby causing theft of electricity in the village. Such complaint application appears to have been given on 26.08.2019. Even panchanama appears to have been executed and it was found that there is a theft of electricity by cutting wire. Therefore, possibility cannot be ruled out that the informant i.e. respondent No.2 had lodged the report out of vengeance. Under such circumstance, case is made out for quashing the FIR as against applicant Nos.2 to 4, as it is befitting in the guidelines issued in ***State of Haryana and others Vs. Ch. Bhajanlal and others, [AIR 1992 SC 604]***. Hence, the following order :-

ORDER

- i) Application stands allowed in respect of applicant Nos.2 to 4.
- ii) Application stands disposed of as withdrawn in respect of applicant No.1.

iii) The FIR bearing Crime No.231 of 2019 dated 12.09.2019 registered with Partur Police Station, Dist. Jalna for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of IPC as well as the further proceedings in R.C.C. No.194 of 2021, stand quashed and set aside as against applicant Nos.2 to 4.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm