

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL APPLICATION NO.2939 OF 2021

SHRIRANG SAVITRABUA DINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.Sujit A. Patil h/f. Mr. A.S. Kakade, Advocate for the applicants.

Mr.K.S. Patil, APP for the respondent/State.

CORAM : V.K. JADHAV &
SANDIPKUMAR C.MORE, JJ.

DATED : 15.03.2022

PC :-

01. We have heard learned Counsel for the applicants at length. We are not inclined to entertain this criminal application seeking quashing of the FIR in Crime No.303 OF 2021 registered with Ashti Police Station, Tal. Ashti, Dist. Beed for the offences punishable under sections 324, 323, 504, 506 read with section 34 of the Indian Penal Code.

02. Learned Counsel for the applicants submits that applicant No.1 is serving as a Constable and applicant

No.2 is his wife and applicant No.3 is his son. Learned Counsel submits that there is civil litigation pending between the parties and due to said dispute, in order to counterblast, this complaint came to be filed. Learned counsel for the applicants submits that applicant No.1 - Shrirang was on Court duty at the relevant time, as such he has been falsely implicated in connection with present crime. Learned Counsel submits that there is considerable delay in lodging the complaint, for which no explanation has been given. Learned Counsel submits that the applicants have been falsely implicated in connection with present crime.

03. For quashing proceedings, the Court is not supposed to consider the probable defence of the accused. It is for the applicants-accused to establish defence of alibi during the course of trial. Further-more, if there is delay in lodging the complaint, it is for the Trial Court to consider the same as to whether the delay is reasonable or unreasonable. We cannot conduct a mini

trial here and give clean-cheat to the applicants-accused.

04. We have carefully perused the police papers. It appears that the informant has sustained injury and he was treated in the concerned primary health center. It appears that the informant has sustained head injury and history as recorded in the said discharge card is that the informant was subjected to physical assault on head and back.

05. In a case of State of State of Odisha Vs. Pratima Mohanty etc in Criminal appeal Nos.1455-1456 of 2021 decided on 11.12.2021, the Supreme Court in para 6.2 has made following observations :-

6.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception

rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 Cr.P.C. when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482 Cr.P.C. the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."

06. Further-more, even if we consider malafides as argued by the learned Counsel for the applicants, however, it has been observed in the case of State of Haryana and Others Vs. Bhajan Lal and Others, reported in 1992 Supp. (1) SCC 335 in para No. 111 of the judgment that even malafides have been alleged, if the allegations are clear, then those submissions about malafides are required to be ignored. Further more looking to the allegations in the present case against the applicants, it cannot be said that criminal proceedings initiated against the applicants are abuse of process of Court. Further-more, the case does not fall within any of the

exceptions as carved out by the Supreme Court in the case of Bajanlal (supra).

07. Hence, following order :-

O R D E R

(i) The Criminal Application is hereby dismissed.

[SANDIPKUMAR C. MORE,J.]

[V.K. JADHAV,J.]