

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 800 OF 2021

Pappu @ Shivram Sopan Pawar & Anr.

.. Petitioners

Versus

The State of Maharashtra & Anr.

.. Respondents

-
- Mr. S.S. Prabhune for the Petitioners
 - Mr. K.V. Saste, APP for the State
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CORAM : S.S. SHINDE &
MILIND N. JADHAV, JJ.

DATE : JUNE 13, 2022

ORDER [PER MILIND N. JADHAV, J.] :

1. By the present petition, the Petitioner has, *inter alia*, prayed for the following relief:-

"(a) That this Hon'ble Court may be pleased to kindly quash the proceedings in Spl Case No. 241/2020 pending before the Learned Sessions Court, Baramati arising out of FIR No. 178 of 2020."

2. The Petitioners are seeking quashing of proceedings in Special Case No. 241/2020 pending before the Sessions Court, Baramati arising out of FIR No. 178/2020.

3. The FIR has been filed for offences under sections 143, 147, 148, 149, 327, 324, 323, 504 and 506 of the Indian Penal Code ("IPC") and sections 3(1)(r)(s), 3(2)(va) of the Schedule Castes and Scheduled Tribes Prevention of Atrocities Act, 2015 ("**Atrocities Act**")

and section 7(a)(d) of the Protection of Civil Rights Act, 1955.

4. It is alleged by the Petitioners that the FIR is a counterblast to the ongoing civil dispute pertaining to land between the parties. There is a Special Civil Suit filed in the year 2006 being SCS No. 116 of 2006 seeking specific performance of agreement against the husband and other family members of the first informant. In the year 2013 the husband and family members of the first informant have filed a Regular Civil Suit being RCS No. 375/2013 against the Petitioners and his family members for permanent injunction. The subject property in question in both the aforesaid suits is Gat No. 211/1, agricultural land situated at Hingangaon, Taluka Indapur, District Pune. It appears from the record that several orders have been passed by the civil court in the interregnum. It also appears that family members of the parties have filed complaints and cross-complaints against each other before various forums. Most importantly both the parties claim possession of the subject land.

5. The incident complained of in the present FIR is of 12.03.2020. It is alleged that the accused confronted the first informant and his family members in the subject agricultural land after arriving there with five others in his vehicle XUV MH-03/BH-2931 and claimed that the subject agricultural land was their land. At that time they had an iron rod in their hands and after threatening the first informant and their family members the accused / Petitioners

abused them on the basis of their caste. In the altercation and skirmish that followed Rajat Satyawar Dhaije nephew of the complainant received a bleeding head injury from the iron rod inflicted by Yuvraj Sopan Pawar whereas the complainant received injury on both his hands and both his legs inflicted by Pappu Pawar; further mother-in-law of the complainant Padmni Narayan Jagtap was pushed and beaten by fists; the gold chain of the complainant was snatched by one of the unknown assailant in the group of five and the complainant and his family members were driven out of the subject agricultural land. The FIR is lodged against Yuvraj Pawar, Pappu Pawar and five other unknown persons and it is claimed by the complainant that the entire incident has been filmed on the mobile phone by Lakhan Satyawar Lahije. Investigation has been completed and charge sheet is also filed.

6. We have perused the chargesheet and the medical certificate of the injuries caused by the Petitioners. Though the injuries are simple as stated and seen, there is a long standing dispute between the family members of the complainant and the family members of the Petitioners in respect of the said agricultural land. However it cannot be said that the FIR that was lodged was a counterblast to the civil suit proceedings as argued by the learned counsel for the Petitioners. If the dates of the two suits are seen, they are far apart and more importantly the FIR has been lodged in the year 2020.

7. Learned counsel for the Petitioners submits that the offences under the Atrocities Act are not clearly made out and there is no eye witness to the incident; that the injuries caused are simple injuries as per the medical certificate placed on record; that because of the long standing dispute between the parties the complaint filed by the first informant is out of vengeance and vendetta and most importantly the Petitioners were granted anticipatory bail by this Hon'ble Court on the basis of the aforesaid reasons.

8. Learned counsel has also referred to and relied upon the decision of the Supreme Court in the case of **Ramawatar Vs. State of Madhya Pradesh**¹ to contend that the powers under section 482 of Cr.P.C. are exercisable in post-conviction matters even when the Appeal is pending before one or other judicial forum. Paragraph No. 16 of the said judgment is sought to be relied upon which reads thus:

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings....."

9. PER CONTRA, learned APP has invited our attention to the chargesheet and the statements recorded by the Investigating Officer (IO) which are appended to the petition. He submits that if the same are carefully perused not only the offence under the Atrocities Act is made out but the act of the Petitioners in inflicting injury by the iron

¹ 2021 4 Crimes (SC) 296 : 2021 7 Supreme 473

rod on the Respondent No. 2 and the family members of the informant is clearly made out; in fact the Petitioners have not even spared the women family members of the informant; that the five assailants along with the Petitioners have been identified in the investigation and their statements have been recorded; that the injury certificate placed on record clearly reflects the nature of the injury inflicted by the Petitioners and hence the relief sought by the Petitioners to quash the proceedings in its entirety should be rejected.

10. We have considered the pleadings and perused the chargesheet carefully. We have also considered the decision in the case of Ramawatar (*supra*) relied upon by the Petitioners. The said decision however in paragraph No. 19 clearly states that in the peculiar facts and circumstances of that case, the Supreme Court considered the application for compromise and was therefore inclined to invoke the powers under Article 142 and quash the criminal proceedings with the sole objective of doing complete justice between the parties. Hence we are of the opinion that the facts and circumstances of each case would govern the result in the said case.

11. In the present case it is seen that the civil suits between the parties have been filed in the year 2006 and 2013. One of the principal ground argued by the Petitioners is that since the complainant has been unsuccessful in defending the civil proceedings the present complaint is a counterblast to the same. This ground on

the face of rerecord cannot countenanced. Further the Petitioners have pleaded that the injuries are not grievous and there is no eye witness to the incident. Both these grounds once again cannot be countenanced at this stage when admittedly several members of the complaint's family were beaten by seven persons including the Petitioners at the spot of the incident. The trial would determine the answers to the above questions. There is no denial of the fact that the complainant and two of his family members were injured and had to be taken for medical treatment, injury certificates of the Sub-District Hospital Indapur, Pune confirms the same.

12. In view of the above, we are of the considered opinion that the relief prayed for by the Petitioners to quash the entire proceedings in Special Case No. 241 of 2020 arising out of FIR No. 178 of 2020 cannot be allowed at this stage. The reasons given above do not persuade us to accept the submissions of the Petitioners. Hence the Petition stands dismissed. However our observations are *prima facie* in nature.

13. Writ Petition stands disposed of in the above terms.

[MILIND N. JADHAV, J.]

[S.S. SHINDE, J.]

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by RAVINDRA
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