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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.1301 OF 2021

1. Nikhil Prakashrao Ghurde,
Aged 30 years, occupation service,
R/o Kewal Colony, Shegaon,
Rahadgaon Road, Amravati,
Taluka and district Amravati.

2. Amol Ashok Meshram,
Aged 30 years, occupation labour,
R/o Shegaon, Amravati,
Taluka and district Amravati.

..... **Applicants.**

:: VERSUS ::

1. State of Maharashtra,
Through PSO Police Station Gadgenagar,
Amravati, district Amravati.

2. Yash Jivanrao Patke,
Aged 21 years, occupation Nil,
R/o Arjun Nagar, Near PSI
Colony, Amravati.

..... **Non-applicants.**

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Shri S.B.Gandhe, Counsel for Applicants.

Shri T.A.Mirza, Additional Public Prosecutor for Non-applicant No.1/State.

None for Non-applicant No.2/Complainant.

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CORAM : V.M.DESHPANDE & G.A.SANAP, JJ.

DATE : JANUARY 11, 2022

ORAL JUDGMENT : (Per : V.M.Deshpande, J.)

1. By this application under Section 482 of the Code of Criminal Procedure, applicants seek quashing of First Information Report.

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2. Heard learned counsel Shri S.B.Gandhe for applicants and learned Additional Public Prosecutor Shri T.A.Mirza for non-applicant No.1/State. Though non-applicant No.2/complainant is served, nobody is appearing for him. In our view, for deciding the present application for quashing of First Information Report, presence of non-applicant No.2/complainant in this case in given set of facts is not necessary.

Rule. Rule made returnable forthwith. Heard finally by consent. Also, perused reply filed on behalf of the State.

3. A crime, vide Crime No.2542/2021, against applicants is registered with Gadgenagar Police Station, Amravati for offences punishable under Sections 307, 336, and 429 read with Section 34 of the Indian Penal Code and under Sections 3 and 25 of the Arms Act, 1959 and also under Section 11(1)(m) of the Prevention of Cruelty to Animals Act, 1960. The offence is registered on a complaint lodged by non-applicant No.2.

4. According to the prosecution case, incident in question occurred on 30.8.2021 at about 9:00 p.m. when non-applicant No.2/complainant was returning from offering prayers. While he was returning and when on the way he reached at Sonal Colony, three persons including present applicants were found sitting on a vehicle

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having Registration No.9811. One of them was holding a pallet gun who fired the said pallet gun mercilessly on a Dog who was sitting quietly along side road. Resultantly, the Dog died. Noticing the said cruelty and the inhuman behaviour of said persons, when non-applicant No.2/complainant accosted and asked them not to indulge in such an activity, upon that they put the pallet gun on his chest and extended him threats. However, non-applicant No.2/complainant some how managed to rescue himself and ran away from the spot.

With these basic allegations, the crime is registered against applicants.

5. As per submission of learned counsel for applicants, no injury is caused to non-applicant No.2/complainant.

We are afraid to accept the said particular submission inasmuch for invoking penal provisions under Section 307 of the Indian Penal Code injury is not *sine qua non*. Placing the pallet gun on the chest of non-applicant No.2/complainant is sufficient to attract provisions under Section 307 of the Indian Penal Code.

6. Neither there is anything on record nor it is case of applicants before the Court that the Dog was creating any nuisance

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requiring to eliminate him to save persons of the society. An utmost cruelty is shown towards the Dog who was sitting quietly along side road and was not creating any type of nuisance or was not danger to nearby residents of locality. It appears that applicants intended to show supremacy in locality by holding a pallet gun and firing the same mercilessly on an unfortunate Dog and when they were accosted by non-applicant No.2/complainant, not only they gave verbal threats but also put a pallet gun on the chest of non-applicant No.2/complainant. It appear that with a grace of the God the gun was not triggered.

7. In this view of the matter, in our view, this is a case wherein a full dressed trial is required to be held and conducted against applicants. Further, even as on today, investigation in the crime is also not complete. Investigating Officer investigating the crime needs to be given a full opportunity to complete investigation and after filing of chargesheet, applicants will have to be tried before competent authority because allegations in the prosecution case are so serious that the prosecution case cannot be terminated or culminated at the stage of First Information Report or chargesheet and the prosecution will have to be given the fullest opportunity to conduct a trial against applicants.

8. In view of the above, the criminal application is **rejected**

Judgment

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and **disposed** of accordingly. Rule stands discharged.

JUDGE

JUDGE

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