

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

CRIMINAL APPLICATION NO.781 OF 2020

Prakash s/o Gangaram Dhage & ors. ... **APPLICANTS**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....

Mr. G.V. Mohekar, Advocate for applicants

Mr. P.G. Borade, A.P.P. for respondent No.1

Mr. G.K. Naik Thigle, Advocate for respondent No.2.

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 1st FEBRUARY, 2023

P.C. :

At the outset, learned counsel for the applicants seeks leave to amend the prayer clause to incorporate R.C.C. Number in the prayer clause. Leave granted. Amendment to be carried out forthwith.

2. With the consent of learned counsel for rival parties, heard finally at the stage of admission.

3. This is an application under Section 482 of the Code of Criminal Procedure to quash First Information Report bearing

Crime No.14/2020, registered with Kuntur Police Station, Taluka Naigaon, District Nanded and the consequential Charge Sheet bearing No.18/2020 and R.C.C. No.45/2020, pending on the file of learned Judicial Magistrate, First Class, Naigaon, District Nanded, for the offence punishable under Sections 353, 504, 506 read with Section 34 of the Indian Penal Code.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by the respondent No.2 who was Incharge Executive Engineer, P.W.D. Sub-Division, Naigaon. The records reveal that, the Government had issued tender for improvement of State Highway 261. The applicants herein had obstructed construction of the State Highway, alleging that the land was not acquired and that they were not paid compensation. The records reveal that the applicants had already filed petition before this Court and thereafter Regular Civil Suit before the learned Civil Judge, Senior Division, Biloli seeking to restrain the State from constructing the State Highway without acquisition. The records indicate that, the applicants had obstructed the construction work mainly on an apprehension that the State Highway was being constructed in their property without acquiring the same and without payment of compensation.

5. Learned counsel for the applicants has placed on record an undertaking given by all the applicants stating that the applicants will not disturb, interrupt or obstruct in any manner in present or in future the State Highway passing through their property under Survey No.361. The said undertaking is without prejudice to their right to claim compensation before the appropriate forum.

6. The learned counsel for the applicants has, under instructions, made a statement that, the applicants in Criminal Writ Petition No.737/2020 and Criminal Writ Petition No.1192/2021, will not claim any compensation for the alleged illegal detention and that they will withdraw Criminal Writ Petition No.1192/2021 and further that they will not seek any action against Vishwambhar Narwade, respondent No.4 in Criminal Writ Petition No.737/2020 and that they will withdraw Criminal Writ Petition No.737/2020.

7. Learned counsel for Resp. No.2 disputes that the applicants are entitled for compensation. However, he states that, in view of the undertaking given by the applicants and the statements made by the learned counsel on behalf of the

applicants, he has no objection if the Court exercises discretion under Section 482 of the Code of Criminal Procedure for quashing the First Information Report registered against the applicants and the consequential criminal proceedings bearing and R.C.C. No.45/2020, pending on the file of learned Judicial Magistrate, First Class, Naigaon, District Nanded.

8. The applicants have been persistently claiming that the road is being constructed in their property without acquisition. Their claim for compensation is pending before the Civil Court, which will finally adjudicate the issue relating to the acquisition and payment of compensation. The applicants had obstructed the respondent No.2 from constructing the road on an apprehension that they were being deprived of their property rights and had no intention of committing an offence. Considering this fact and also taking into consideration the undertaking given by the applicants and the statements made by learned counsel for the applicants, in our considered view, this is a fit case to exercise the discretion under Section 482 of the Code of Criminal Procedure to secure the ends of justice.

9. In the result, the Criminal Application is allowed in terms of prayer clause (B). The First Information Report

bearing Crime No.14/2020, registered with Kuntur Police Station, Taluka Naigaon, District Nanded and the consequential Charge Sheet bearing No.18/2020 and R.C.C. No.45/2020, pending on the file of learned Judicial Magistrate, First Class, Naigaon, District Nanded, for the offence punishable under Sections 353, 504, 506 read with Section 34 of the Indian Penal Code are quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-