

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.852 OF 2021

1. Vikas Narayan Patil
2. Shubham Narayan Patil
3. Narayan Sampat Patil
4. Indubai Narayan Patil
5. Ramesh Julalsingh Patil
6. Rekha Krushna Patil
7. Pragati Krushna Patil
8. Varsha Narayan Patil,
9. Megha Narayan Patil
@ Megha Pravin Patil
10. Bhavana Arvind Patil
11. Bhagwat Julalsingh Patil
12. Krushna Julalsingh Patil
13. Nirmala Kashinath Patil
14. Varsha Komalsingh Patil
15. Dipali Abhaysingh Bagul
@ Dipali Narayan Patil
16. Neha Nilesh Patil @
Neha Nitin Pawar
17. Yash Komal Patil
18. Jyotsna Vitthal Patil
19. Savita Kishor Patil

.. Applicants

Versus

1. The State of Maharashtra
2. Geetabai Sanjay Shelke

.. Respondents

...

Mr. Rohit Patwardhan h/f Mr. Satej S. Jadhav, Advocate for applicants.

Mr. S. D. Ghayal, APP for respondent No.1 - State.

Mr. Navin S. Shah h/f Mr. S. S. Patil, Advocate for respondent No.2.

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

RESERVED ON : DECEMBER 07, 2022.

PRONOUNCED ON : JANUARY 09, 2023.

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 proceedings against them.

2. The FIR came to be lodged at the behest of respondent No.2 vide Crime No.43 of 2021 on 03.03.2021 with Bodwad Police Station, Dist. Jalgaon for the offences punishable under Sections 354, 448, 327, 147, 149, 143, 323, 504, 506 of Indian Penal Code and under Section 135 of the Maharashtra Police Act. After the investigation is over, the charge-sheet came to be filed.

3. Heard learned Advocate Mr. Rohit Patwardhan holding for learned Advocate Mr. Satej S. Jadhav, learned APP Mr. S. D. Ghayal for respondent No.1 - State and learned Advocate Mr. Navin S. Shah holding for learned Advocate Mr. S. S. Patil for respondent No.2.

4. It has been vehemently submitted on behalf of the applicants that the FIR that has been lodged by respondent No.2 is the outcome of retaliation of the FIR that was lodged by Vikas Narayan Patil on 02.03.2021 with the same police station for the offences punishable under Sections 143, 147, 149, 448, 427, 323, 504, 506 of Indian Penal Code and under Section 37(1)(c) of the Maharashtra Police Act. The cousin brother of said Vikas had love affair with the daughter of respondent No.2 and they both have eloped from the village since 28.02.2021. There was a meeting in respect of that incident at about 10.16 p.m. on 01.03.2021 and when in presence of many persons it was asked as to where the boy has gone and had taken the girl, Vikas and others had claimed ignorance. Thereafter, the meeting was over, yet around 10.40 p.m., the accused persons in Crime No.41 of 2021 went to the house of Krushna Patil - maternal uncle of Vikas and committed the said offence. Thereafter, the said FIR vide Crime No.43 of 2021 has been lodged with ulterior motive and the entire family has been roped. Many persons have not been assigned any specific role. Rather, as regards the applicants are concerned, the record would show that many witnesses were not even knowing the full name of those applicants. Statements of the witnesses are also on the same line. Under such circumstance, it would be a futile exercise to ask all the applicants to face the trial.

5. Per contra, the learned APP as well as learned Advocate appearing for respondent No.2 strongly opposes the application and

submitted that perusal of the FIR as well as the statements of witnesses and other material in the charge-sheet would disclose participation of each and every applicant. They had formed unlawful assembly and thereafter the offence has been committed. Learned Advocate for respondent No.2 has relied on the decision in ***Padal Venkata Rama Reddy Alias Ramu Vs. Kovvuri Satyanarayana Reddy and Others, [(2011) 12 SCC 437]***, wherein it has been held that there is no need to analyse each and every aspect meticulously before trial to find out whether the case would end in conviction or acquittal. High Court cannot get into meticulous analysis of facts and therefore, this cannot be taken as a fit case for exercising inherent powers of this Court.

6. At the outset, it is to be noted that Crime No.41 of 2021 was in respect of incident that had allegedly taken place on 01.03.2021 at the house of one Krushna Patil. The FIR vide Crime No.43 of 2021 is in respect of the incident dated 03.03.2021, which is stated to have occurred in the house of informant i.e. respondent No.2. They cannot be taken as cross cases. Only on the basis of these two FIRs it cannot be opined that Crime No.43 of 2021 is in retaliation to Crime No.41 of 2021. For that purpose evidence is definitely required to be led or such evidence will have to be brought on record by the accused i.e. the present applicants. Merely because it is connected to eloping of the girl and the boy, they cannot be so connected to infer that it is in

retaliation. That incident is only the connecting incident. As regards the role of each and every applicant is concerned, no doubt most of the witnesses have taken their names and sometimes not even the full names, but they say that they all had come together and entered the house of the informant. *Prima facie* then there is material to show that they were the members of the unlawful assembly and thereafter the role will have to be attributed to each one of them for other offences are concerned. When there is *prima facie* material available, and in view of ***Padal Venkata Rama Reddy Alias Ramu (Supra)***, this Court cannot go into the meticulous scrutiny. Therefore, this cannot be taken as a fit case where the inherent powers are required to be exercised. The application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm