



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

907 CRIMINAL WRIT PETITION NO. 557 OF 2022

1. Vilas s/o Shantaram Alande.
2. Swapnil s/o Vilas Alande.
3. Nikhil s/o Vilas Alande.
4. Anita w/o Vilas Alande. ... **Petitioners**

Versus

1. The State of Maharashtra.
2. Ravindra s/o Madhukar More. ... **Respondents**

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Advocate for Petitioner : Mr. Krishna P. Rodge & Anshuman Asare.

APP for Respondent/State : Mr. V. V. Kotecha.

Advocate for Respondent No.2 : Mr. Ajay G. Talhar.

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CORAM : **R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 19th December, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is a petition, under Section 482 of the Code of Criminal Procedure, 1973, for quashment of report and the consequential charge-sheet in S.C.C. No.1542 of 2021, pending in the Court of learned Chief Judicial Magistrate, Jalgaon, for the offences punishable under Sections 385, 323, 504 and 506 read with 34 of the

Indian Penal Code, 1860.

3 The informant/respondent No.2 averred in the report that his son Tejas was a friend of one Swapnil Vilas Alande. His son Tejas took hand loan of Rs.50,00,000/- from Vilas Shantaram Alande. Entire loan amount was repaid. Tejas and informant were harassed again by demanding Rs.50,00,000/-. The informant told them that he has paid the entire hand loan amount. Therefore, they should not demand that amount.

4 On 13th September, 2019 at about 09:00 pm, all the petitioners came to the house of informant. They asked whereabouts of Tejas. They demanded Rs.50,00,000/-. The informant told that Tejas is not in the house. The informant told to the petitioners to come after arrival of Tejas and talk with him. The petitioners insisted for that amount of Rs.50,00,000/- and they threatened that if it is not paid, then they will eliminate Tejas. They all slapped the informant and beaten him. The wife of the informant came there and rescued him. He did not lodge the report on 13th September, 2019, because his mental condition was not good. He lodged the report on 22nd September, 2019.

5 The learned counsel for petitioners submitted that the delay caused for lodging the report is not explained. He pointed out

the injury certificate of Tejas submitted with the charge-sheet on which the incident of assault dated 22nd September, 2019 is shown. He submitted that Tejas was not present in the house. Therefore, there was no such possibility of assault on him. He submitted that false case is registered against the petitioners. He lastly prayed to allow the petition by quashing the report and charge-sheet.

6 The learned APP for the State and the learned counsel for respondent No.2 strongly opposed the petition and pointed out the supplementary statement of the informant recorded on 10th December, 2021, in which he has mentioned that another incident took place on that night at about 01:00 pm to 01:30 pm in which Tejas was beaten by the petitioners. They further pointed out the statements of eye-witnesses. They lastly prayed to reject the petition as there is material evidence against the petitioners.

7 Perused the report and the charge-sheet. Admittedly, the supplementary statement of respondent No.2 was recorded on 10th December, 2021 and that creates reasonable doubt about the alleged incident of assaulting Tejas. The delay of 9 days caused for lodging the report is not properly explained. The informant is retired as Sectional Engineer. The reason given by him that his mental condition was not good, is not natural, probable and acceptable as good reason

for explanation of delay caused for lodging report. The injury certificate of Tejas, which is submitted alongwith the charge-sheet, is also doubtful when he was not present at the time of alleged assault. The supplementary statement is also doubtful because it is recorded after two years. Therefore, the supplementary statement itself is reasonably doubtful and it cannot be relied upon. Thus, there is no material evidence against the petitioners to proceed further with the trial. If the petitioners are compelled to face the trial, it would be certainly an abuse of the process of Court. The petition deserves to be allowed. The criminal writ petition is, therefore, allowed in terms of prayer clauses (B) and (B-1).

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]