



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO. 1571 OF 2020

1. Sunil Pandurang Tat
2. Ramesh Pandurang Tat
3. Shivaji Pandurang Tat
4. Baban @ Kachru Kerba Ingale
5. Anuradha Sunil Tat
6. Sunita Shivaji Tat
7. Trivenibai Pandurang Tat
8. Pintu @ Ishwar Gopalrao Ingale
9. Chotu @ Vikas Gopalrao Ingale

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Bhima Bhagwat Shinde

..RESPONDENTS

Advocate for Applicants : Mr. Bhapkar S.B.

APP for Respondent/State : Mr. A.R. Kale

Advocate for Respondent No.2 : Mr. S. S. Thombre

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 20th DECEMBER, 2023.**

ORAL ORDER (Sanjay A. Deshmukh, J.) :-

. This application is filed for quashing the First Information Report (FIR), being Crime No.143 of 2020 registered with Police Station, Yusuf Wadgaon, for the offence punishable under sections 307, 147, 148, 149, 323 of the Indian Penal Code and consequential charge-sheet No.7 of 2021 for the offence punishable under sections 324, 147, 148, 149, 504 of the Indian Penal Code.

2. Informant-respondent no.2 averred in the report that his two brothers Arjun and Shankar are residing separately. These three brothers purchased the block no.82 admeasuring 10 Acres 3 Ares land from Gajarabai Kadam etc in the year 1989.

3. On 04.07.2020 at 10 a.m. in the said property situated at Apegaon, labour Pintu Ingle of Sunil Tat was grazing cattle. Informant told him to take away the cattle from that property. Pintu Ingle called Sunil Tat and Ramesh Tat there. They came with brother Shivaji Pandurang Tat, Baban Kerba Ingle, Anuradha Sunil Tat, Sunita Shivaji Tat, Trivenibai @ Kausalyabai Tat, Pintu Gopal Ingle, Chotu Ingle along with an axe, iron rod, sticks etc. They assaulted on the head of brother of informant Shankar. Shivaji Tat assaulted him by iron rod. Ramesh and Arjun assaulted him by backside of the axe. Sunil Tat assaulted him on his back. In that assault, inadvertently, while assaulting Ramesh Tat sustained injury by the back side of axe on his leg. They tried to eliminate Shankar and Arjun. He went to the Police Station and lodged the report. Report was lodged on 10.07.2020.

4. The learned advocate for the applicants submitted that there is delay of six days for lodging the report. Only simple injuries are sustained to the informant and his brothers. There is decree of perpetual injunction of the Civil Court in favour of the applicants in

Regular Civil Suit No.169/1988. The informant and others have committed breach of that injunction order. Therefore, contempt proceedings are filed against them. He pointed out the decree passed by the District Court in Regular Civil Appeal No.21 of 2016. Initially, N.C. was registered and thereafter, the applicants are falsely implicated by lodging this report in which section 307 etc., of the Indian Penal Code wrongly invoked against the applicants. He lastly prayed to allow the application by quashing the report and charge-sheet.

5. The learned APP strongly opposed the application by contending that the names of applicants are mentioned in the report. Injury certificates show injuries to the brothers of the informant. He lastly submitted that though there is delay in lodging the report, it is considered on merits by the trial Court. He lastly submitted to reject the application.

6. The learned advocate for respondent no.2 submitted that the names of the applicants are mentioned in the report. Injury certificates and opinion of the expert show that the applicants have assaulted brothers of the informant and they have sustained injuries. He lastly submitted that considering admitted fact of quarrel took place between the family of the informant and applicants, the application deserves to be rejected. He prayed to reject the

application.

7. Perused the charge-sheet. It is admitted fact that there is decree of perpetual injunction in favour of the applicants passed by the trial Court and confirmed by the District Court in appeal. The injury certificates show that all the injuries are simple injuries. Therefore, it cannot be inferred that any cognizable offence is committed by the applicants. There is delay caused for lodging the report. Counter case is admittedly pending in the Sessions Court. Considering the delay caused for lodging the report, nature of injuries and the fact that the report was not lodged first in time and only N.C. was registered, there is no material against the applicants to proceed for trial. The essential ingredients of section 324 etc., of IPC are not establishing from the charge-sheet. On such insufficient material, if the applicants are compelled to face the trial, it would be abuse of process of the Court. The application, therefore, deserves to be allowed. Hence the following order :-

ORDER

- (i) The application is allowed in terms of prayer clauses "B" and "F".
- (ii) No costs.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)