

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO.2963 OF 2022

BAPURAO BHIMRAO WAGH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Addl. PP for the respondent – State : Mrs. M.A. Deshpande
...

**CORAM : MANGESH S. PATIL &
M.M. SATHAYE, JJ.**

DATE : 14 MARCH 2023

PC :

The matter was on yesterday's board. It was heard for some time and when we expressed our disinclination to grant any relief on merits, learned counsel for the applicant had sought time to take instructions. The instructions were to be taken during the remainder of the day, however, learned advocate did not turn up and the matter is posted today. None is present for the applicant even today.

2. We have heard learned advocate for the applicant yesterday as also the learned APP.

3. The applicant is seeking quashment of the crime registered pursuant to the F.I.R. No.266 of 2022 of Vimantal Police Station, Nanded, for the offences punishable under sections 447, 323, 504, 506 read with 34 of the Indian Penal Code, by resorting to the

provisions of section 482 of the Criminal Procedure Code. By way of amendment, in view of the fact that the charge-sheet was also filed, a prayer is added for quashment of the charge-sheet as well.

4. It is trite that the powers of this Court under section 482 of the Criminal Procedure Code are to be used sparingly and in the rarest of rare case.

5. A bare look at the FIR reveals that the applicant is the owner of a plot of land, which he allegedly agreed to sell to the respondent no.2 – informant. Written document was executed. Respondent no.2 was put in possession and he even set up his motor garage. He alleges that *in spite* of insistence, the applicant refused to execute the sale deed and instead he along with persons named in the FIR, forcibly entered into the garage, abused and assaulted him.

6. *Panchanama* reveals that the motor garage is in the name and style of Mahalaxmi Motors, wherein few vehicles were found parked apart from the furniture. On our query to the learned advocate for the applicant as to if that business is set up by the applicant, he denied. Independently, the application is absolutely silent as to who was running the garage if not the respondent no.2.

7. Apart from the above state of affairs, even there are statements of the witnesses about having seen the incident of assault

being carried on the respondent no.2. In view of such material available with the Investigating officer, in our considered view, this is not a fit case wherein the crime can be quashed by resorting to the powers under section 482 of the Code of Criminal Procedure.

8. The application is rejected.

[M.M. SATHAYE]
JUDGE

[MANGESH S. PATIL]
JUDGE

sga/