

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2412 OF 2021

1. Shaikh Washim Abdul Shakur @
Shaikh Shakur
2. Shaikh Nadim S/o Shaikh Shakur
@ Shaikh Shakur
3. Shaikh Sami S/o Shaikh Abdul Gani
4. Shaikh Salim S/o Abdul Gani
5. Shaikh Jawed S/o Abdul Gani
6. Shaikh Juned S/o Shaikh Nabi

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Jawdkha S/o Hamidkha Pathan

..RESPONDENTS

...

Advocates for Applicants : Mr.M.P. Kale
APP for the Respondent/State : Mr.R.B. Bagul
Advocate for respondent no.2 : Mr.Vaibhav B. Kulkarni

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 31.07.2023.**

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

. This is an application filed under section 482 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C.") for quashing of F.I.R. bearing Crime No.144 of 2021 registered with Police Station, Partur, Dist. Jalna, for the offences punishable under sections 143, 147, 323, 504 and 506 of the Indian Penal Code and the charge-sheet filed in S.C.C. No.110 of 2021 pending in the Court of Judicial Magistrate, First Class, Partur.

2. Informant – respondent no.2 averred in the report that on 11.04.2021, at about 5 p.m., when he was at his house, the applicants came there and questioned him, as to why he lodged the report regarding rationing shop against them. They abused him and slapped him. They threatened that if the case is not taken back, they will eliminate him. Amjad Kha Pathan and Shaker Kha Pathan rescued that quarrel. He went to the Police Station and lodged the report.

3. The learned advocate for the applicants submitted that earlier to that alleged incident, they have lodged a report against the informant and his brother bearing Crime No.142 of 2021 on the same day at about 4.25 p.m. under section 143 of the Indian Penal Code that Shaker Khan Dilawar Khan Pathan, one of the witness pointed out the report displayed on whatsapp status of mobile No.9082446790 dated 08.04.2021 that Muslim persons in village Warfal are not faithful and they are giving false evidences. Therefore, the report was lodged against him. To counter that report, this report is filed. The learned advocate for the applicants contended that no cognizable offence took place. No such incident took place. The learned advocate for the applicants therefore prayed for quashing the FIR and the charge-sheet in S.C.C. No.110 of 2021.

4. The learned APP for the State and the learned advocate for respondent no.2 have strongly objected the application. They contended that the applicants are involved in serious crime. They prayed to reject the application.

5. Perused the report. Though, the report shows that it was lodged on the same day, it was registered after the registration of the earlier FIR on the part of the applicants. There are two political groups. Respondent No.2 belongs to B.J.P. party and the applicants belong to the Nationalist Congress party. Considering the nature of allegations and fact that there is no reliable material of alleged incident, it appears that the report is lodged in order to give counter blast to the earlier report of the applicants. In such facts situation, no cognizable offence is made out against the applicants. Therefore, to compel the applicants to face the trial would be an abuse of process of the Court. The application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause "B". No costs.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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