

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3657 OF 2022

1. Hanuman s/o Annasaheb Thoke,
Age : 41 years, Occu.: Service.
R/o. Block H, Wing-A, Room No.202,
Near Mill Corner, Police Lane,
Commissioner Office, Aurangabad.
2. Annasaheb s/o Mathaji Thoke,
Age : 61 years, Occ.: Agri,
R/o. Koli Bodkha, Tq. Paithan,
Dist. Aurangabad.
3. Sow. Gangasagar w/o Annasaheb Thoke,
Age : 59 years, Occ.: Agri,
R/o. Koli Bodkha, Tq. Paithan,
Dist. Aurangabad.
4. Sow. Yamunabai w/o Hanuman Thoke,
Age : 36 years, Occ.: Household,
R/o. Block H, Wing-A, Room No.202,
Near Mill Corner, Police Lane,
Commissioner Office, Aurangabad.
5. Sow. Satyashila w/o Bajirao Thoke,
Age : 31 years, Occ.: Agri,
R/o. Koli Bodkha, Tq. Paithan,
Dist. Aurangabad.

...Applicants

Versus

1. Harichandra s/o Eknath Gaikwad,
Age : 61 years, Occ.: Agri,
R/o. At Post : Koli Bodkha,
Tq. Paithan, Dist. Aurangabad.
2. The State of Maharashtra,
Through Police Station (Police Inspector),
Pachod, Tq. Paithan,
Dist. Osmanabad.

...Respondents

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Advocate for Applicants : Mr. Sonpethkar Aniket P

Advocate for Respondent No.1 : Mr. V. M. Jarare

APP for Respondent No.2/State : Mr. P. M. Kulkarni

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CORAM : KISHORE C. SANT, J.

DATE : 20th MARCH 2023.

ORDER :

1. Heard the learned Advocates for the respective parties at length.

By consent of the parties, taken up for final disposal.

2. By way of this application, applicants have approached this Court challenging the judgment and order dated 31.03.2022 passed by the learned Additional Sessions Judge, Aurangabad in Criminal Revision Application No.120/2021, dismissing the same. Revision was filed challenging order of issuance of process passed by the the Court of learned Judicial Magistrate First Class, Paithan.

3. The respondent no.1 had lodged a private complaint in respect of the incident dated 20.04.2021 alleging the offence against the present applicants that in the morning, they had been to the field and cut the trees standing on the common bund of the land belonging the complainant and the accused persons. When he asked as to why they are cutting the trees, it is alleged that the applicants abused him and also threatened of dire consequences. Therefore the informant /respondent no.1 had been to the police station, however the police did not register a crime and instead only registered N.C. (Non-Cognizable). Respondent no.1 therefore approached the Court of learned Judicial Magistrate First Class, Paithan by filing S.C.C. No.290/2021. The learned Magistrate recorded a verification of the respondent no.1, wherein the respondent no.1 stated that all the applicants/accused cut the trees on the common bund. He stated that the present applicants obstructed the complainant from going near bund and thereby committed an offence punishable under Section 341 of the Indian Penal Code. The allegations are also made for the offences punishable under Sections 504, 506 of the IPC.

4. After recording the verification, the learned Magistrate vide order dated 24.06.2021 issued process against the applicants. The applicants filed a Revision Application No.120/2021 in the Court of learned Sessions Judge, Aurangabad. The learned Sessions Judge by way of impugned judgment and order dismissed the said Revision. Thus the applicants are before this Court.

5. It is tried to be canvassed before this Court that the applicant no.1 and 4 are not residing on the addresses mentioned in the complaint. They are residing at Aurangabad beyond the territorial jurisdiction of the Court of learned J.M.F.C., Paithan. It is further contended that no specific role is alleged against any of the accused persons and thus there was no application of mind by the learned Magistrate while issuing process.

6. As against that, the learned Advocate for respondent no.1 submits that the address of applicant no.1 and 4 is of 'Village Bodkha, Taluka Paithan' and they were rightly served on the same address. At this stage, when the address of the accused persons is shown to be within

the jurisdiction of the Court, the Court is not expected to undertake the enquiry about the correctness of the address of the accused persons. He further submits that in fact in the verification also, he has clearly made allegations against all the applicants. He has also mentioned names of applicant nos. 2 to 5 in his verification, as they did not allow him to proceed in any direction. So far as applicant no.1 and 2, he submits that in the verification it is clearly stated that all these accused persons have deliberately done the act and that is sufficient averment at this stage.

7. Having heard the parties, this Court finds that there is no substance in the ground that no enquiry under Section 202 was held by the learned Magistrate for the reason that the addresses of applicant no.1 and 4 were shown within the territorial jurisdiction of the Court of learned J.M.F.C., Paithan. So far as the role of the applicants is concerned, it is seen that the allegations are sufficient enough to make out a case for issuance of process. This Court finds that no illegality is committed by the learned Sessions Judge, while passing the order in the Revisional Jurisdiction. The Revisional Jurisdiction is limited to the

extent of looking only to the illegalities in the orders passed by the learned J.M.F.C. Considering this, this Court finds that no case is made out to call for any interference in impugned order. The application is therefore dismissed.

[KISHORE C. SANT, J.]

Najeeb.