

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3764 OF 2022

1. Manohar S/o Namdeo Kasbe,
Age-54 years, Occu.: Agriculturist,
2. Amar S/o Manohar Kasbe,
Age-32 years, Occu.: Agriculturist,
3. Vikas S/o Manohar Kasbe,
Age-29 years, Occu.: Student,
4. Shantabai W/o Manohar Kasbe
Age: 45 Years, Occu: Household
5. Janabai W/o Manohar Kasbe
Age: 49 Years, Occu: Household,
6. Satvashila W/o Manohar Kasbe
In FIR name is mentioned as
Satubai Manohar Kasbe
Age: 47 Years, Occu: Household
7. Surekha W/o Amar Kasbe
Age: 26 Years, Occu: Household
Applicants no. 1 to 7 R/o Bahegavhan,
Tq. Wadwani, Dist. Beed
8. Kamal W/o Shesherao Salve
Age: 69 Years, Occu: Household,
9. Appa S/o Shesherao Salve
Age: 39 Years, Occu Agriculturist
10. Chaya W/o Appa Salve
Age: 37 Years, Occu: Household
11. Kisan S/o Dhuraji Manjare
In FIR name is mentioned as
Kisan Dharuji Manjare
Age: 38 Years, Occu: Agriculturist
12. Archana W/o Kisan Manjare
Age: 37 Years, Occu: Household

13. Vijay @ Viju S/o Kisan Manjare
Age: 21 Years, Occu: Student
Applicants no. 8 to 13 R/o. Kawadgaon Budruk,
Tq. Wadwani, Dist. Beed

14. Rajkumar @ Raju Massaji Sonwane
Age: 36 Years, Occu: Agriculturist

15. Jyoti W/o Rajkumar @ Raju Sonwane
Age: 33 Years, Occu: Service (Asha Worker)

Applicants no. 14 and 15 R/o Dhanegaon,
Tq. Kaij, Dist. Beed.

16. Avinash Pandurang @ Pandu Kamble
Age: 32 Years, Occu: Service

17. Ashwini W/o Avinash Kamble
Age: 28 Years, Occu: Household
Applicant no. 16 & 17 are R/o Bhim Nagar,
Majalgaon, Tq. Majalgaon, Dist. Beed

18. Sangita W/o Namdeo Parve
Age: 34 Years, Occu: Household
R/o Null, Tq. Kumbefal,
Tq. Kaij, Dist. Beed

... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Through Police Station Wadwani,
Dist. Beed.

2. Sakubai W/o Manik Kasbe
Age: 60 years, Occu: Agriculturist
R/o Bahegavhan, Tq. Wadwani, Dist. Beed

... **RESPONDENTS**

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Mr. Amar V. Lavte, advocate for the applicants

Mr. V.S. Badakh, APP Respondent/State

Mr. M.P. Kale, Advocate for respondent No.2

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

Reserved on 05.04.2023

Pronounced on : 10.04.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides and perused the papers of the investigation. This is an application seeking to invoke the powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 for quashing Crime No.94/2022 registered with Wadawani Police Station, District Beed for the offences punishable under Section 143, 147, 148, 149, 327, 324, 323, 504, 506 of the Indian Penal Code and the subsequent charge sheet and the criminal case bearing RCC No.42/2022 pending in the court of Judicial Magistrate, First Class, Wadawani, District Beed.

2. The sum and substance of the allegations are to the effect that the informant respondent No.2 and the accused Nos.1 to 4 are relatives and possess adjoining lands. On 19.05.2022 at noon time when respondent No.2 and her sister in law Gavlanbai Dnyanoba Kasbe were busy in agricultural operations, the applicant Nos.1 and 2 who are the father and son were plowing their field with a tractor. In doing so they started cutting some branches of a guava tree which the respondent No.2 claims to have been planted by her on her side of the common bandh. When she started questioning them regarding cutting of the branches they started hurling abuses at both the ladies. When respondent No.2 tried to protest rest of the applicants are alleged to have arrived there and formed an unlawful assembly and thereafter applicant No.2 is stated to have assaulted her with a stick on her hand. Applicant No.4 who happens to be the wife of the applicant No.1 and mother of the applicant Nos. 2 and 3 splashed chilly

powder in the face of the respondent No.2 and Gavlanbai and the applicant Nos.1 to 3 by holding the hands of both these women removed gold chains from around their neck. It is then alleged that when the other witnesses who were mainly daughters-in-law of the respondent No.2 arrived at the scene and tried to pacify but even they were abused and beaten with kicks and fists. It is also alleged that even their ornaments were removed from around their neck. Lastly, it is alleged that applicant No.1 then threatened her of dire consequences. The FIR was lodged on 07.06.2022 and the offence was registered.

3. The learned advocate for the applicants would submit that there is enormous delay in lodging the FIR by the respondent No.2 which has given her sufficient time to resort to concoction. On the very date of the incident in fact the applicant No.1 with the applicant No.2 were plowing their field and having seen that some of the branches of the guava tree were creating obstruction in plowing the field he requested his nephew Sunil Dnyanoba Kasbe and Annasaheb Dnyanoba Kasbe to either cut the branches or tie them. They got annoyed and flatly refused to oblige. He submits that when the applicant No.1 tried to do it himself, Sunil caught hold him and fell to the ground. When an alarm was raised the respondent No.2 arrived there when applicant No.1 tried to separate the applicant No.1 and Sunil she splash chilly powder on the face of applicant No.1. He was then fell to the ground Sachin set on his chest one Sham Kasbe caught hold his hands and Anna Kasbe forcibly poured some white colour chemical in his mouth.

When the family members of the applicant No.1 i.e. applicant No.4 and his daughters Archana and Chaya i.e. the applicant Nos. 12 and 10 respectively arrived there, both these women were assaulted by Seema Sham Kasbe and Kavita Shrimant Kasbe with a sickle. The matter was reported to police on 06.05.2022 and as a counter blast the present FIR has been lodged on the next day i.e. 07.06.2022 with a concocted version. There are injury certificates of applicant No.1 and applicant No.11. There is no satisfactory explanation of the delay in lodging the FIR attempted to be given in the FIR itself. The allegations against the applicant Nos.5 to 18 are vague and omnibus. No specific role is attributed to them. There are no independent witnesses revealing their complicity in the crime. Every attempt has been made to rope in as many person as possible who are near and dear ones of the applicant No.1. It would be sheer abuse of the process of law if all the applicants are made to face the prosecution.

4. The learned APP and the learned advocate for the respondent No.2 would strongly oppose the application. They would submit that the very fact that the applicant No.1 himself claims that some incident on the same date, time and place having taken place wherein even he has named some of the applicants as being present at the time of incident it is sufficient to infer that some incident did occur. There are injury certificates of respondent No.2 and Gavlanbai. Though the injuries are simple, former has sustained couple of lacerations whereas latter has sustained one contusion and two abrasions. There are independent witnesses as well in the form of a

driver of a truck. Statement of respondent No.2 has been recorded under Section 164 of the Code of Criminal Procedure. She has reiterated the allegations. It cannot be said that the FIR is false or bogus and the application be rejected.

5. We have carefully considered the police papers. After hearing the arguments when we expressed our disinclination to grant any relief to applicant Nos.1 to 4, their learned advocate, on instructions, sought leave to withdraw the application to their extent.

6. So far as the rest of the applicant Nos. 5 to 18, obviously the FIR as also the witnesses who are the family members of the respondent No.2 namely Kavita Shrimant Kasbe, Monica Suraj Kasbe, Pratibha Sachin Kasbe and Seema Sham Kasbe have named all the applicants. But their statements are as vague as is the FIR. Accepting the allegations in the FIR at its face value, one cannot comprehend as to how if initially only applicant Nos.1 and 2 were present at the scene wherein even the respondent No.2 and her sister in law Gavlanbai were present and they were busy in performing their agricultural operations independently, as to how no sooner the applicant No.1 allegedly hurled abuses and the respondent No.2 protested, rest of the applicant Nos.5 to 18 could have immediately arrived at the scene though the FIR itself mentions that some of them hail from village Bahegavhan, some hail from Majalgaon, Taluka Majalgaon and applicant No.18 hails from Kumbefal, Taluka Kaij. It is not that some incident had occurred as a prelude and thereafter the applicants designedly

formed an unlawful assembly with some common object. The narration of the incident in that regard is clearly improbable and therefore unbelievable about all the applicants having reached to the spot simultaneously no sooner abuses were hurled by the applicant No.1 at respondent No.2 and she objected to it.

7. Similarly, even if the allegations in the FIR about gold chains having been removed by the applicants from around the neck of respondent No.2 and Gavlanbai are accepted, one cannot comprehend as to how even in respect of as many as 5 to 6 daughters-in-law of the respondent No.2 whose statements have been recorded under Section 161 of the Code of Criminal Procedure the gold chains even from around their neck also could have been removed simultaneously. Conspicuously nothing has been recovered during the course of investigation as can be seen from column No.14 of the charge sheet.

8. The aforementioned facts and circumstances clearly reveal that neither the FIR nor the witnesses have been able to attribute specific overt act to any of the applicant Nos.5 to 18. The allegations are vague and omnibus.

9. Besides, even according to the FIR the incident had taken place on 19.05.2022 but the FIR has been lodged on 07.06.2022. Not even a faint attempt has been made to explain the delay either in the FIR or by any of the prime witnesses. As against this, the applicant No.1 seems to have reported his version of the incident to police a day earlier i.e. on

06.06.2022.

10. In view of all the aforementioned facts and circumstances, in our considered view, it would be a sheer abuse of the process of law if for a trifle incident of a usual bickering happening on account of lands being adjacent to each other, all these persons who are related to the applicant Nos.1 to 4 have been roped in, in all probability to seek vengeance. The case of the applicant Nos.5 to 18 is squarely covered by the instances laid down in the matter of **State of Haryana and Ors. V/s Ch. Bhajan Lal and Ors.; (1992) SCC (Cri) 426.**

11. The application is partly allowed. The application to the extent of applicant Nos.1 to 4 is rejected. The application to the extent of rest of the applicant Nos.5 to 18 is allowed.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)