

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3461 OF 2019

1. Milind s/o Shrirang Gawali
Age 34 years, Occu. Private Job,
 2. Anil s/o Shrirang Gawali,
Age 37 years, Occu. Private Job,
- Both R/o C-68/12, Shivajinagar,
11th Scheme, CIDCO, Aurangabad ... APPLICANTS

VERSUS

1. The State of Maharashtra
through Jawaharnagar Police Station,
Aurangabad, Tq. & Dist. Aurangabad

(Copy to be served on P.P., High Court
of Judicature of Bombay,
Bench at Aurangabad)
2. Vikrant s/o Laxman Gadwe,
Age 36 years, Occu. Service,
R/o Ramanagar Galli No.1,
Kranti Chowk, Aurangabad
Tq. & Dist. Aurangabad ... RESPONDENTS

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Mr. G.G. Suryawanshi, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent No.1.
Mr. V.B. Jogdand, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 11th JANUARY, 2023

P.C. :

At the outset, learned counsel for the applicants seeks
leave to amend the prayer clause to insert the case number. Leave

granted. Amendment to be carried out forthwith.

2. By this application filed under Section 482 of the Code of Criminal Procedure, the applicants have sought to quash First Information Report No.0443/2016, registered with Jawaharnagar Police Station, Aurangabad for the offences punishable under Sections 143, 147, 427, 337, 295 of the Indian Penal Code and consequential charge sheet bearing No.138 and criminal proceedings being S.C.C. No.10822/2018 pending on the file of learned Judicial Magistrate, First Class, Aurangabad.

3. Heard learned counsel for the applicants, learned A.P.P. for respondent No.1 – State and learned counsel for respondent No.2. We have perused the record and considered the submissions advanced by learned counsel for the parties.

4. The aforesaid crime was registered pursuant to the First Information Report lodged by respondent No.2, who was working as Office Boy for the Corporator Rajendra Janjal. The complainant has alleged that, on 13/12/2016 at about 7.00 p.m., a mob of 50 to 60 persons entered the office of Rajendra Janjal, they pelted stones in the office and damaged glass partition. They also caused damage to the bust of Shivaji Maharaj. It is further stated that, the complainant had also sustained injury in the said incident. The complainant has also alleged that, the said mob had

abused Rajendra Janjal and others in filthy words.

5. The complainant in his supplementary statement has identified total 14 persons, including the applicants and stated that they were also the members of an unlawful assembly which had pelted stones and damaged the office items from the office of Rajendra Janjal.

6. Learned counsel for the applicant states that, the complainant has falsely implicated the applicants because of the complaint lodged by the mother of applicants against said Rajendra Janjal. Suffice it to say that, these submissions cannot be considered in an application filed under Section 482 of the Code of Criminal Procedure, the scope and ambit of which is well settled by the Hon'ble Apex Court in case of Court in case of **State of Haryana & ors. Vs. Ch. Bhajan Lal [AIR 1992 SC 604]**, wherein it is inter alia held that the F.I.R. or the proceedings can be quashed :

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) x x x x x x x x x

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in

support of the same do not disclose the commission of any offence and make out a case against the accused.”

7. In the instant case, the statement of the complainant prima facie shows that the applicants were present at the place of incident and were involved in commission of the cognizable offence. Hence, this is not a case which warrants exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, the application is dismissed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-