

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3555 OF 2018

RAJU @ RAJKUMAR S/O. SANTRAM ZINJURKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Mr. S. B. Solanke, Advocate for the Applicants.
Mr. A. R. Kale, APP, for the Respondent – State.
Mr. G. R. Syed, Advocate for the Respondent No.2.

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CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ

DATE : MARCH 01, 2023

PER COURT :

1. With consent, heard finally at the stage of admission.

2. This is an application under Section 482 of Cr.P.C. to quash the FIR No. 190/2018 registered with Ambhora Police Station, Tq. Ashti, Dist. Beed and R.C.C. No. 52/2019 pending on the file of learned AJMFC, Ashti for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. Heard learned Counsel for the Applicants, learned APP for Respondent – State and learned Counsel appearing for Respondent No. 2.

4. Learned Counsel for the Applicants state that there is civil dispute between the Applicants and the Respondent No. 2 herein. He states that an order of injunction is operating against the Respondents restraining them from entering the disputed property. He submits that one of the Applicants had also filed a complaint before the Magistrate and that the Magistrate by order dated 13.07.2018 has called for the report under Section 202 of the Cr.P.C. Learned Counsel for the Applicants submit that the Respondent No. 2 has filed a false complaint against the Applicants as a counter blast to the complaint by one of the Applicants. He, therefore, submits that this is a fit case to exercise powers under Section 482 of Cr.P.C to prevent an abuse of the process of Court.

5. *Per contra*, learned APP as well as learned Counsel for the Respondent No. 2 submits that the scope of the provisions under Section 482 of Cr.P.C. is limited. They contend that the first information report and the other material on record *prima facie* discloses commission of cognizable offence and hence, this Court cannot quash the proceedings on an assumption that the

Respondent has filed a false complaint.

6. We have perused the records and considered the submissions advanced by learned Counsel for respective parties.

7. The only question for our consideration is whether the FIR and the other material, which forms part of the charge-sheet, *prima facie* discloses commission of cognizable offence.

8. It is pertinent to note that the aforesaid crime was registered pursuant to the FIR lodged by the Respondent No. 2. A perusal of the FIR reveals that on 26.09.2018, while the Respondent No. 2 and her brothers were working in the paddy field, the Applicants came to the field and started installing a tin shed by the side of the road adjoining to the field of Respondent No. 2. It is alleged that when the Respondent No. 2 objected to erecting of the tin shed in view of pendency of the dispute before the civil Court, all the Applicants assaulted her with stones, sticks, kicks and blows and also abused her in filthy words. She has stated that one of the Applicants had also threatened to kill her. Based on these allegations, the aforestated crime has

been registered. In the supplementary statement, the Respondent No. 2 had stated that on the same day earlier at about 3 pm the Applicant No. 1 had outraged her modesty.

9. The records reveal that there is a civil dispute between the Applicants and the Respondent no. 2 in respect of the paddy filed under Survey No. 416. The FIR and the medical certificates *prima facie* reveals that the Applicants herein were involved in assaulting the Respondent No. 2 by sticks and kicks and that she had sustained grievous injuries. The records thus, *prima facie* disclose involvement of the Applicants in commission of cognizable offence.

10. The Hon'ble Apex Court in Geo Verghase Vs. State of Rajasthan & Anr, 2021 SCC OnLine SC 873 has considered the scope and ambit of Section 482 of Cr.P.C and has observed thus:

35. The scope and ambit of inherent powers of the Court under Section 482 CrPC or the extra-ordinary power under Article 226 of the Constitution of India, now stands well defined by series of judicial pronouncements. Undoubtedly, every High Court has inherent power to act ex debito

justitiae i.e., to do real and substantial justice, or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution. However, the inherent power or the extraordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed.

11. In the instant case, the material on record *prima facie* shows involvement of the Applicants in commission of a cognizable offence. Hence, it is not permissible to scuttle prosecution on an assumption that the allegations are false. In our considered view, this is not a fit case to exercise discretionary powers under Section 482 of Cr.P.C. Hence, the Application has no merits and is accordingly dismissed.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)