

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2213 OF 2018

1. Mr Tukaram Akaram Mane
Age: 57, Occupation :Agriculture.
 2. Mrs. Shilabai Tukaram Mane
Age 52, Occupation:Household
 3. Mr.Sampat @ Umesh Tukarm Mane
Age: 27, Occupation :Agriculture.
 4. Shri Ganesh Tukaram Mane
Age : 21, Occupation :Education.
 5. Ms. Ashwini Tukaram Mane
Age: 25, Occ: Household,
All respondents R/o. Village :Bamani,
Taluka: Khanapur, District:Sangli
- Digitally
signed by
CHITRA
SANJAY
SONAWANE
Date:
2023.10.26
10:42:40
+0530
- CHITRA
SANJAY
SONAWANE
- PETITIONERS.
- V/s

1. Shri.Dilip Sadashiv Mane
Age :36, Occupation : Agricultature,
R/o. Village : Bamani, Taluka :Khanapur,
District: Sangli.
 2. The State of Maharashtra,
Copies to be served upon
Government Pleader, Appellate Side,
Mumbai High Court, Mumbai
- ...RESPONDENTS.

Mr Suryajeet P. Chavan for the petitioners.
Ms SD Shinde, APP for State.

Coram: R. N. Laddha, J.
Date: 25 October 2023

P.C.: -

Heard Mr Suryajeet Chavan, the learned Counsel for the
Petitioners; and Ms SD Shinde, the learned APP for second

respondent/ State.

2. The complainant in R.C.C. No.75 of 2014 alleges that the accused, who are his relatives, have a civil dispute. On 14 January 2014, the accused No.1 assaulted the complainant while he was watering the crops. The complainant's father arrived at the scene to rescue him, but the accused also attacked him. Accused No.1 then hit the complainant's father on the head with the blunt side of the spade. After that, all the accused assaulted the complainant and his father. Therefore, they went to the police station to lodge a complaint, but the police despite sending them for medical treatment, did not take any action. Hence, the complainant was constrained to file a private complaint against the accused.

3. The learned Magistrate after completing the formalities issued a process against the accused under sections 324 and 506 read with 34 of the Indian Penal Code ('IPC'). The accused/petitioners challenged this order by filing Revision Application No.82 of 2016 before the learned Additional Sessions Judge, Sangli. However, the learned Additional Sessions Judge dismissed the revision application by a Judgment and Order dated 13 March 2018. Aggrieved thereby, the petitioners filed the present Petition.

4. Mr Suryajeet Chavan, the learned Counsel appearing for the

petitioners, submitted that the learned Additional Sessions Judge failed to consider the fact that the complainant and the accused had land disputes. He argued that Section 324 IPC is not applicable in this case since the petitioners never voluntarily caused hurt to the complainant by using a dangerous weapon, nor did they threaten to cause death or grievous hurt. Although the alleged incident took place in January 2014, the complaint was filed only in December 2014.

5. Ms SD Shinde, the learned APP appearing for respondent/State, opposed the Petition and relying upon the reasons recorded in the impugned order submitted that the Petition is devoid of any merit.

6. This Court has carefully considered the submissions made at the Bar and perused the records.

7. After examining the records, it was revealed that the complainant's father had filed a complaint with the police on the day of the incident, which was numbered as NC No.37 of 2014. This makes it clear that the complainant had approached the police immediately after the alleged incident. Since the police did not take any action, the complainant approached the Court by filing the present complaint. It is a settled position in law that at the stage of

issuance of a process, it is not necessary to scrutinise the evidence minutely. The material on record *prima facie* shows that all the accused in furtherance of their common intention assaulted the complainant and his father, which is amply corroborated by the medical evidence. The ingredients of sections 324 and 506 IPC are *prima facie* made out. There is no illegality or perversity in the impugned orders and at this stage no interference is warranted.

8. In view of the above, the Petition stands dismissed.

[R.N. Laddha, J.]