

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [APL] No. 1127/2021.

Rahul s/o Satyavijay Gadam,
Aged about 26 years, Occupation
Job, resident of Wadali Satwai,
Taluq Akot, District Akola.

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APPLICANT.

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station Gramin Akot,
Taluq Akot, and District Akola.

2.Darshan Padmakar Gadam,
Aged about 24 years, Occupation
Job, resident of at Post Wadali
Satwai, Taluq Akot,
District Akola.

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NON-APPLICANTS.

Mr. K.H. Anandani, Advocate for the Applicant.
Mr. S.S. Doifode, Addl.P.P. for Non-applicant No.1 /State.
None for Non-applicant No.2 - Served

**CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.**

DATE : JUNE 12, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

By consent of the learned Counsel present for the parties, Criminal Application is taken up for final disposal at the stage of admission.

Admit.

2. This is an application under Section 482 of the Code of Criminal Procedure seeking to quash the first information report bearing Crime No.343/2018 registered with Police Station Akot Gramin for the offence punishable under Sections 326, 324, 143, 148, 149 and 504 of the Indian Penal Code, along with the charge sheet bearing R.C.C.No.193/2019 pending on the file of Judicial Magistrate, First Class, Akot, District Akola.

3. At the instance of a report lodged by the injured Darshan, a crime was registered for the aforesaid offences. It is informants'

case that on 16.10.2016, around 10 a.m. out of a land dispute in all 9 accused [including applicant – Rahul], arrived and quarreled with the informant and his father Padmakar. It is stated that all of them assaulted his father by means of pipe of water sprinkler, and then there was further assault. Particularly, it is stated that the informant was assaulted by Rama Gadam [co-accused]. Another co-accused Vandana Gadam assaulted him by means of sickle. Vipul Gadam [co-accused] dealt blows by pipe. He stated that his mother arrived on the spot with one Ghanshyam whilst co-accused Vipul assaulted his mother and therefore, the report.

4. The learned Counsel for the applicant would submit that though the informant stated about the assault by several persons, no specific role is assigned to Rahul, who is arrayed as accused no.10. It is pointed out that the informant has named accused no.5 – Kisanrao, as assailant, however, his death certificate is produced on record that on 04.06.2007 Kisanrao died. This fact was brought to the notice coupled with the fact that entire family has been falsely implicated in the crime.

5. With the assistance of both the sides, we have examined the statement of the informant, coupled with statement of injured Padmakar. So far as the informant is concerned, besides mere presence of Rahul, he has not assigned any role to him. Though the informant has stated that applicant Rahul along with others assaulted his father Padmakar, however, statement of Padmakar [another injured] is totally silent about the overtact at the hands of Rahul. He has merely stated that Rahul was present on the spot. Naturally if as per the statement of informant, Rahul has participated in the assault, then the injured Padmakar must have stated about his role, but, facts are otherwise.

6. The informant has stated that his mother Ranjana arrived on the spot, who was also assaulted by the accused. However, bare perusal of Section 161 statement of Ranjana disclose that she had not witnessed the incident, but, she arrived after the happenings. We have gone through the statement of other witnesses, which are of hearsay nature.

7. The learned Counsel for the applicant would submit that on the date of occurrence there was assault by the informant and his father to cousin brother of Rahul, namely Umesh, for which on the same day an oral report was lodged, which was registered as Crime No.340/2018. According to him, as a counter blast, the existing first information report has been lodged by falsely implicating the family members. On examination, we find that besides mere presence, nothing has been stated against the accused Rahul. We are convinced by the submission that the informant has implicated maximum members, since a dead fellow has also been stated as assailant. Since we do not find any role ascribed to the applicant, we deem it appropriate to exercise our inherent jurisdiction. Facing criminal trial is a serious matter, hence, to secure the ends of justice, we deem it appropriate to discontinue the criminal case against applicant Rahul only. Hence, the following order.

ORDER

- [i] Criminal Application is accordingly allowed and disposed of.

- [ii] The first information report bearing Crime No.343/2018 registered with Police Station Akot Gramin for the offence punishable under Sections 326, 324, 143, 148, 149 and 504 of the Indian Penal Code, along with the charge sheet bearing R.C.C.No.193/2019 pending on the file of Judicial Magistrate, First Class, Akot, District Akola, are hereby quashed and set aside so far as it relates to the applicant – Rahul Satyavijay Gadam only.

JUDGE

JUDGE