

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 812 OF 2020

- APPLICANTS :**
1. Nikita d/o Narendra Gajbhiye,
Aged above – 28 Years,
Occu – Student,
 2. Usha Wd/o Narendra Gajbhiye,
Aged above – 50 Years,
Occu – Service,
 3. Prerna D/o Narendra Gajbhiye
Aged above – 22 Years,
Occu – Student,

All R/o Old Sakkardhara, Gawandi Pura,
Sakkardhara, Nagpur.

V E R S U S

- RESPONDENTS :**
1. State of Maharashtra
Through Police Station Incharge,
Police Station,
Sakkardhara, Nagpur.
 2. Mukund S/o Ramaji Gajbhiye,
Aged Above – 48 years,
Occu-Nil, Plot No.144,
Old Sakkardhara, Gawandi Pura,
Sakkardhara, Nagpur.

Ms. R. G. Nitnaware, Advocate for applicants.
Shri V. A. Thakare, Additional Public Prosecutor for respondent No.1.
Shri Pawan Dahat, Advocate h/f Shri A. B. Moon, Advocate for
respondent No.2.

WITH
CRIMINAL APPLICATION (APL) NO. 366 OF 2021

- APPLICANTS :**
1. Mukund s/o Ramaji Gajbhiye,
Aged about 49 Years,
Occupation – Private.

2. Babita w/o Mukund Gajbhiye,
Aged about 40 Years,
Occupation – Housewife.
3. Anjanabai wd/o Ramaji Gajbhiye,
Aged about 70 years,
Occupation – household.
4. Ranjana w/o Jigjivan Shende,
Aged about - 45 years,
Occupation – Housewife.

All R/o 141, Old Sakkardara Gawandipura,
Post – Ayodhya Nagar, Nagpur – 440024.

VERSUS

RESPONDENTS :

1. State of Maharashtra
Through Police Station Officer,
Police Station, Sakkardara, Nagpur.
2. Usha Narendra Gajbhiye,
Aged About 50 years,
Occupation - Housewife,
R/o. Old Sakkardara Gawandipura,
Sakkardara, Nagpur 440024.

Shri Pawan Dahat, Advocate h/f Shri A. B. Moon, Advocate for
applicants.

Shri V. A. Thakare, Additional Public Prosecutor for respondent No.1.
Ms. R. G. Nitnaware, Advocate for respondent No.2.

CORAM:- VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.
DATED : 24/07/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. Both applications are taken together for disposal since
they relate to the counter cases, arising out of same incident

dated 14/09/2020 at around 7.30 a.m. in front of house of the parties.

3. Both sides are closely related to each other and residing in the neighbourhood. Criminal Application (APL) No.812/2020 has been filed by the applicants namely; Nikita Gajbhiye, Usha Gajbhiye and Prerna Gajbhiye, seeking to quash FIR in Crime No.455/2020 for the offence punishable under Sections 324, 504 and 506(2) of the Indian Penal Code along with charge sheet. It is applicants' case that respondent No.2 (informant) namely; Mukund Gajbhiye is their close relative and residing adjacent to them. There was a dispute in between the neighbours on account of boundary wall. It is informants case that on 14/09/2020 at around 7.30 a.m. while he was at his house, the dispute arose in which the applicants have assaulted him as well as to his mother namely; Anjanabai Gajbhiye. Particularly applicant - Nikita Gajbhiye pulled hair of Anjanabai whilst applicant - Prerna Gajbhiye beat at the leg of Anjanabai and therefore, the report.

4. Criminal Application (APL)No.366/2021 has been filed by four persons namely; Mukund Gajbhiye, Babita Gajbhiye, Anjanabai Gajbhiye and Ranjana Shende seeking to quash FIR in Crime No.466/2020 for the offences punishable under Sections

294, 323, 427, 506 r/w Section 34 of the Indian Penal Code along with charge sheet. The said crime was registered at the instance of respondent No.2 (informant) namely; Usha Gajbhiye (Applicant No.2 in Criminal Application (APL) No.812/2020). She has stated that the parties are closely related and are next door neighbours. Similarly, Usha Gajbhiye stated that on 14/09/2020 at around 7.30 a.m., there was dispute on account of boundary in which the applicants abused them in filthy language and beat by fist blows, kicks and also gave threats. Hence, the report has been lodged on 13/10/2020.

5. There is no denial that the parties are closely related with each other and residing adjacent to them. Though the incident allegedly occurred on 14/09/2020 at around 7.30 a.m., however, none of them have lodged report in quick succession. Rather, for the incident dated 14/09/2020, informant Mukund Gajbhiye has lodged report on 04/10/2020 i.e. after gap of 19 days. Perusal of case paper discloses that the medical certificate was obtained by Mukund Gajbhiye on 21/10/2020 i.e. much later than registration of FIR. Likewise, in another Crime No.466/2020, report was lodged much later on 13/10/2020 i.e. after a gap of one month and particularly, after 10 days from lodging of report by rival party. In said report, it has been stated that there were

abuses in filthy language and alleged threats. Obviously, there is no medical evidence to support the case of assault.

6. It emerges that there was some dispute in between the neighbours who are related with each other. There may be some minor bickerings in between the parties. However, none of them have approached to the Police on the date of occurrence or soon thereafter. It reveals that due to dispute, after lapse of several days, they chose to lodge report which does not eliminate the chances of exaggeration by both. Prima facie, it appears that there may be some exchange of words. However, the contents of report do not lend support or vouch the credibility. In view of that, continuation of both prosecution amounts to abuse of the process of Court. If the prosecution is continued, then the neighbourers have to face the trial for a prolonged period which may enhance the bitterness. In the circumstances, we are inclined to exercise our inherent jurisdiction.

7. In view of the above, both applications are allowed.

8. We hereby quash and set aside the FIR in Crime No.455/2020 registered with Sakkardara Police Station, Dist. Nagpur for the offences punishable under Sections 324, 504 and 506(2) of the Indian Penal Code along with charge sheet.

9. We hereby also quash and set aside the FIR in Crime No.466/2020 registered with Sakkardara Police Station, Nagpur for the offences punishable under Sections 294, 323, 427, 506 r/w Section 34 of the Indian Penal Code along with charge sheet.

10. Both applications stand disposed of accordingly.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]

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