



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO. 167 OF 2021

BHAGWAN RAGHUNATH KAMBLE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. V.P. Savant Advocate h/f. Mr. Avinash D. Hande
Advocate for Applicants.
Mr. N.R. Daima, A.P.P. for Resp. No.1.
Mr. I.D. Maniyar Advocate for Resp. No.2 appointed through
Legal Aid.

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**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 6th AUGUST, 2024

ORDER :

1. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the First Information Report (for short "the FIR") vide Crime No.186 of 2020 for the offence punishable under Sections 279, 337 of the Indian Penal Code. Further, in view of filing of the charge-sheet during the pendency of the Application, prayer clause has been amended and the quashment of the charge-sheet dated 17th January 2023 bearing S.C.C.

No.30 of 2021 pending before the learned Judicial Magistrate First Class, Naigaon, District-Nanded has been prayed.

2. Heard learned Advocate Mr. Savant holding for learned Advocate Mr. Hande for the applicants, learned APP Mr. Daima for the State and learned Advocate Mr. Maniyar for respondent No.2, appointed through Legal Aid.

3. From the submissions on behalf of the applicants that the applicants were not present at the spot when the alleged accident took place, it can be revealed that the applicants want to take the plea of alibi, which they will have to prove. Though they have tried to shift the burden even at this stage, by making a statement that the investigating officer ought to have collected the CCTV Footage, the lacunas in the investigation cannot be looked into at the stage of quashing the FIR. Further, delay in lodging the FIR can be explained and that cannot be the sole ground on which the FIR can be quashed and set aside. As regards the statements of witnesses are concerned, it is tried to be stated that most of them have stated that they came to know about the incident from another person. We cannot enter into the arena of appreciation of evidence and there are witnesses

also who have stated about the number of the vehicle. Under such circumstance, we do not find this to be a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure.

4. The Application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/AUG24