



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.661 OF 2020

1. Jayram s/o Budha Patil (Masule),
2. Ganesh s/o Jayram Patil (Masule) **... APPLICANTS**

VERSUS

1. The State of Maharashtra
through the Police Sub Inspector,
Dhule Taluka Police Station, Dhule
Tq. & Dist. Dhule
2. Bapu s/o Suka Nyahale, **... RESPONDENTS**

...
Advocate for Applicants : Mr. Ujwal S. Patil
A.P.P. for respondent/State : Mr. K.N. Lokhande
Advocate for respondent No.2 : Ms. Pratibha Suryawanshi

...

**CORAM : MANGESH S. PATIL &
R.M. JOSHI, JJ.**

DATED : 05.02.2024

ORDER (MANGESH S. PATIL, J.) :

This is an application under Section 482 of the Code of Criminal Procedure seeking quashment of Special Criminal Case No.12/2020 pending before the learned Special Judge and Additional Sessions Court, Dhule for the offences punishable under Section 354B, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) and 3(1)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. At the joint request of the parties the matter is heard finally at the stage of admission.

3. The FIR lodged by the respondent No.2 on 21.11.2019 alleges that on 20.11.2019 when he was irrigating onion crop at 5.00 pm both the applicants arrived there, and hurled abuses at him on caste lines. They threatened him and also assaulted him with kicks and fists. Applicant No.1 then assaulted him with a wooden stick. When his sister-in-law Sindhubai Kashinath Nyahale arrived there the applicant No.1 pushed her aside by holding her hair, torned her blouse and outraged her modesty. When another sister-in-law Bebabai Dilip Nyahale also rushed to the spot after hearing commotion, the applicants fled from the spot. He narrated the incident to the family members in the same evening. However, since there was no vehicle to reach the police station, on the next date i.e. 21.11.2019 he took a bus to Dhule and lodged the report. He and Sindhubai were referred for medical treatment.

4. During investigation injury certificates were obtained. Both Bapu i.e. respondent No.2 and Sindhubai were stated to have sustained simple injuries with hard and blunt object.

5. The learned advocate for the applicants would submit that there are no specific allegations to reveal the ingredients for the offences with which the applicants have been charged. In fact the applicant No.2 was not even present at the spot. He has been falsely implicated. There

has been a civil dispute. Prior to the present FIR already the applicant No.1 had attempted to set the criminal law in motion by soliciting directions under Section 156 (3) of the Code of Criminal Procedure. A concocted FIR has been lodged as a counter blast.

6. Per contra, the learned APP and the learned advocate for the respondent No.2 would strongly oppose the application.

7. Bearing in mind the inherent limitations in the powers of this Court in invoking the extraordinary jurisdiction under Section 482 of the Code of Criminal Procedure, if one examines the papers of the investigation made available to us, we are of the considered view that this is not a fit case to quash the trial at the threshold.

8. Needless to state that the probable defence which the applicants would be taking during the trial is absolutely irrelevant while entertaining the request of quashment of the crime for the obvious reason that the defence will have to be made out during the trial by leading evidence. Merely because the FIR has been lodged at a later point of time, after the applicants had filed the private complaints *per se* would not lead us to any conclusion muchless as desired by the applicants about the present matter being a concocted one.

9. Rather the circumstance indicated even in the private complaint lodged by the applicant No.1 make it abundantly clear that there has been a bad blood between the two sides on account of some

land. Suffice for the purpose to observe that even existence of such a land dispute can be looked upon as providing a motive for the applicants to commit the crime, which they are seeking to be quashed.

10. Besides, apart from the allegations in the FIR and the statements of the witnesses, though the injuries are simple, the respondent No.2 and Sindhubai did sustain simple injuries as is mentioned in the injury certificates. There is no delay in lodging the FIR. Whatever delay is there that has been sought to be explained in the FIR itself. It cannot be said that the applicants are being falsely implicated.

11. Even to the extent of the applicant No.2, there is a specific reference about his presence at the scene of the crime. Though actual assault is attributed to the applicant No.1, his presence at the scene along with the applicant No.1 who is his father that too on the backdrop of the aforementioned circumstances, is sufficient to indicate that both the applicants must have arrived at the scene with some premeditation, which would be sufficient to attract the allegations about even the applicant No.2 having shared the common intention with the applicant No.1.

12. In these circumstances, the application does not have any merit and is liable to be rejected.

13. The application is rejected.

14. Learned advocate Ms. Suryawanshi was appointed to represent the respondent No.2 and we quantify her fees at Rs.3000/-

(Rs. Three Thousand only) to be paid through the High Court Legal Aid Services Authority.

[R.M. JOSHI]
JUDGE

[MANGESH S. PATIL]
JUDGE

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