



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1410 OF 2024

- 1] Balasaheb S/o Gopla Andhale
- 2] Prashant S/o Baban Andhale
- 3] Ajay S/o Ramdas Andhale
- 4] Amit S/o Balasaheb Andhale
- 5] Kausalya W/o Balasaheb Andhale
- 6] Sunita W/o Baban Andhale
- 7] Manisha W/o Ramdas Andhale
- 8] Sujata W/o Amit Andhale

.. Applicants

Versus

- 1] The State of Maharashtra
Through Ashti Police Station,
Tq. Ashti, Dist. Beed

- 2] Satish S/o Vishwanath Andhale (Orig. Informant)

.. Respondents

...
Advocate for applicants : Mr. Amol S. Gandhi
APP for the respondent – State : Mr. G.A. Kulkarni
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 1 APRIL 2024

PC :

By way of this application under section 482 of the Code of Criminal Procedure, the applicants are seeking quashment of crime no. 008 of 2024 registered with Ashti Police Station Tq. Ashti, Dist. Beed for the offences punishable under section 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and the subsequent chargesheet.

2. We have heard learned advocate for the applicants.

3. The learned advocate for the applicants would take us through the papers and would submit that the applicants are being falsely implicated with concocted allegations. The applicant nos. 2 to 4 were not even present at the place on the date and time mentioned in the FIR, of the alleged incident. There is material to corroborate their such stand. He would also submit that, in fact, even the respondent no. 2 has been facing prosecution on the basis of the crime registered against him and his family members on a compliant lodged by one of the applicants, namely, Sunita Baban Andhale. It is a civil dispute. It would be abuse of process of law to make all the applicants face the prosecution. No specific and particular role is attributed to each of the applicants.

4. Learned APP would oppose the application.

5. Bearing in mind the limited scope of the powers vested in this Court under section 482 of the Code of Criminal Procedure while considering the request for quashment of crime, it is pertinent to note that the investigation is still going on. Since *prima facie*, it is a matter of formation of unlawful assembly and commission of the crime in furtherance of the common object of the unlawful assembly, one need not explore the role attributable to each of the accused /applicants,

since any act done in furtherance of the common object would be attributable to every member of the unlawful assembly.

6. Admittedly, there seems to be a dispute between the two families leading to filing of the FIRs and counter FIRs. Going by the allegations in the FIR, the offences can certainly be made out. Needless to state that the Investigating Officer pursuant to the investigation being carried out, will have to submit a final report. Till that time, the situation as regards application of specific offences would be amorphous.

7. Considering the fact that there is a motive attributable to the applicants for commission of the crime and *prima facie* material revealing that the incident had happened, as reported in the FIR, in our considered view, this is not a fit case to quash the crime at the threshold without there being any investigation and a final report.

8. However, considering the fact that the applicants no. 2 to 4 are taking a plea of *alibi* and have some material to substantiate it in the form of CCTV footage and the certificates, this could be considered by the Investigating Officer. When we express our inclination to permit these applicants no. 2 to 4 to repeat the request after filing of the chargesheet, learned advocate for the applicants seeks leave to withdraw the application to their extent with the liberty as aforesaid.

9. The application to the extent of applicant nos. 1, 5, 6, 7 and 8 is rejected.

10. The application to the extent of applicant nos. 2 to 4 is disposed of as withdrawn with the liberty as prayed for.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/