



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

CRIMINAL APPLICATION NO. 1591 OF 2020

1. Kamal D/o Maroti Wasmate @
Kamal w/o Sambhaji Vijapure,
Age : 54 years, Occu. : Service,
R/o Berli, Tq. Mukhed,
Dist. Nanded.
 2. Sambhaji S/o Gangaram Vijapure,
Age : 55 Years, Occu. : Service,
R/o As above.
- .. Applicants

Versus

1. The State of Maharashtra,
Through, Police Station,
Mukhed, Dist. Nanded.
 2. Hanmant S/o Tukaram Aaglave,
Age : 52 Years, Occu. : Pvt. Service,
R/o Berli, Tq. Mukhed,
Dist. Nanded.
- .. Respondents

Shri S. R. Bagal, Advocate h/f Shri B. N. Gadegaonkar, Advocate
for the Applicants.

Ms. R. P. Gour, A.P.P. for the Respondent No. 1.

Shri Nitin S. Kadam, Advocate for the Respondent No. 2.

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

DATE : 12 MARCH 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally at the admission stage.

2. The applicants are seeking quashment of CR No. 0231/2020 of Mukhed Police Station, Dist. Nanded for the offence punishable U/Sec. 452, 394, 323, 504, 506 of the Indian Penal Code.

3. Informant, respondent No. 2 lodged report on 03.07.2020 about the incident occurred on 27.06.2020 at his residential house. It is alleged that when he was in his house with wife, sons and daughters-in-law, at about 8.00 a.m. applicants barged in and started quarreling on payment of money. They were abusive and even manhandled the informant. Informant was beaten by the applicant No. 2, when were tried to be pacified by sons of the informant. Applicant No. 2 is alleged to have snatched mangal sutra from the wife of informant.

4. Learned counsel for the applicants submits that they are falsely implicated because of the rivalry between the families and the civil dispute. It is submitted that in fact an offence has been registered on the same day against sons of the informant U/Sec. 354, 323, 504, 506 r/w Sec. 34 of the I. P. Code. The allegations are said to be improbable. It would be abuse of process of law to proceed against the applicants.

5. Learned Assistant Government Pleader submits that investigation of offence in question reveals that there are eye witnesses to the incident. There is CCTV footage and as such incriminating material is available against the applicants. He would submit that by following due procedure of law, CCTV

footage is collected from the camera installed in the house where the incident took place. Applicant No. 2 was not present in the school at the relevant time. There is material available to proceed against the applicants.

6. We have considered submissions of both the parties. Impugned FIR is registered on 03.07.2022, after about seven days of the incident. Though there is counter FIR bearing CR No. 228/2020 registered at the instance of the applicant No. 1 against sons of the informant that itself would not be a cause to quash the impugned FIR. Rather it would corroborate presence of the applicants at the site. There appears to be a civil dispute between the applicants and the informant and the proceedings are pending. These circumstances would only indicate that they are at the loggerheads.

7. We have gone through the papers of investigation placed on record by the learned A. P. P. First Information Report expressly refers to overt act of both the applicants. There are eye witnesses namely Premlabai, Pooja, Rajkumar, Sanjay, albeit they are close relatives of the informant. But there are independent witnesses as well like Pandit, Datta, Balaji and Tukaram. It appears that CCTV camera was installed in the house of the informant and the incident was captured. There is investigation in that respect also. We further find that applicant No. 2, who is teacher was not present in the school at the relevant time and there is evidence collected to that effect.

8. We are of the considered view that there is sufficient material to proceed against the applicants. Plea of false implication in the offence can be decided during the course of trial only. *Prima facie*, we find that offence can be made out against them.

9. We, therefore, reject the criminal application.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/March 24