



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

Criminal Application No. 1240 / 2021

1. Rajendra s/o Narayan Telore,
Age : 47 years, Occ. Agriculture,
R/o House No.512, Brahmni,
Taluka : Rahuri, District Ahmednagar.
2. Sunita d/o Bhagwat Gujar,
Age : 37 years, Occ. Service,
R/o Flat No.12, Abish Nagar,
Nasik-Pune road, Near Datta Mandir,
Shivaji Nagar, Nasik.
3. Satyabhama w/o Bhagwat Gujar,
Age : 73 years, Occ. Housewife,
R/o Gogalgaon, Tq. Rahata,
District Ahmednagar.
4. Bhagwat s/o Krushna Gujar,
Age : 68 years, Occ. Housewife,
R/o Gogalgaon, Tq. Rahata,
District Ahmednagar.

...Applicants

Versus

1. State of Maharashtra
Government Public Prosecutor,
High Court of Judicature at Bombay,
Bench at Aurangabad.
2. Yogita w/o Yogesh Dhas,
Age : 30 years, Occu. Nurse,
R/o Flat No.C-08, Plot No.4,
Gat No. 70, Satyapushpa Platinum,
Dwarkadas Nagar, Beed by Pass,
Aurangabad.

..Respondents

WITH
Criminal Application No. 1507 / 2021

1. Vilas s/o Narayan Telore,
Age : 58 years, Occ. Agriculture,
 2. Akash s/o Vilas Telore,
Age : 25 years, Occ. Agri.,
 3. Vikas s/o Vilas Telore,
Age : 24 years, Occ. Agri.
 4. Meerabai w/o Vilas Telore,
Age : 50 years, Occ. Household,
All R/o Brahamani, Tq. Rahuri,
District Ahmednagar.
 5. Pushpa w/o Vilas Pote,
Age : 50 years, Occ. Household,
 6. Ganeshs/o Vilas Pote,
Age : 35 years, Occ. Agri.
- Applicant No.5 and 6 are R/o Pune,
Taluka & District Pune.

...Applicants

Versus

1. State of Maharashtra
Through the Police Inspector,
Rahuri Police Station,
Rahuri, Dist. Ahmednagar.
2. Rajendra s/o Narayan Telore,
Age : 46 years, Occu. Agri.,
R/o Brahamani, Tq. Rahuri,
District Ahmednagar.

..Respondents

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Mr. Shyam C. Arora, Advocate for the Applicants in Applicant
No.1240/2021 and for Respondent No.2 in Criminal Application
No.1507/2021.

Mr. S.B. Pulkundwar, A.P.P. for Respondent No.1/State in both the applications.

Mr. Rahul R. Karpe, Advocate for Respondent No.2 in Criminal Application No.1240/2021 and for Applicant in Criminal Application No.1507/2021.

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

DATE : 23 APRIL 2024

FINAL ORDER *[Per Shailesh P. Brahme, J.] :*

- . Heard both the sides in both the applications finally.
- 2.** Both the applications are filed under Section 482 of the Code of Criminal Procedure, seeking quashment of First Information Report and the consequential proceedings. They are arising out of cross complaints filed by the respective respondent no.2/informant, alleging incident of 27.05.2021 occurred at Brahmni, Taluka Rahuri, District Ahmednagar, but according to their version.
- 3.** Applicants are related inter-se. Applicant no.1/Rajendra in Criminal Application No.1240/2021 is real brother of the applicant no.1/Vilas in Criminal Application No.1507/2021. Co-applicants are their wives and children. In Criminal Application No.1240/2021, applicant no.3 and 4 are parents-in-law of applicant no.1/Rajendra.
- 4.** Respondent No.2/Yogita in Criminal Application

No.1240/2021 happens to be sister of applicant no.1/Rajendra. She lodged report with Rahuri Police Station against the applicants, alleging that on 27.05.2021, her parents and other relatives had been to Village Brahmni for performing last rites of her grand-father. The applicants prohibited them from entering the house and started quarreling with them on issue of claiming ownership of house. Applicant no.1 alleged to have abused informant's father and started beating him. Her mother was also manhandled. Applicant nos. 2 to 4 came there with sticks and started beating informant, her parents and others. It is further alleged that applicant no.1 snatched gold ornaments from the person of informant's mother. Applicant no.2 is alleged to have snatched gold locket from informant. Similarly, ornaments were snatched from aunt of the informant and her son. An amount of Rs.50,000/- was also taken away from grand-mother of the informant.

5. Learned Counsel for the applicants Mr. Shyam C. Arora, submits that applicant no.1 was brutally beaten by informant's father and he was required to lodge complaint which was registered as C.R. No.428/2021. He was hospitalized and discharged on 01.06.2021. It is further submitted that a civil dispute has been pending between the brothers over distribution of the properties. House no.512 stands in the name of applicant no.1. Informant's father-Vilas is unnecessarily claiming right in the house. It is further submitted that applicant nos. 2 to 4 are

not concerned with the family dispute. Applicant no.2 is the care taker of the special child of the applicant no.1. The applicant nos. 3 and 4 are aged and ailing. They are residents of Rahata and they were not present at the spot at the relevant time. It is further submitted that out of the civil dispute and the rivalry between the brothers, all applicants are implicated in a false case. It would be abuse of process of law to proceed against them.

6. Learned APP and learned Counsel for the respondent no.2 oppose the submissions of Counsel for the applicants. They would advert our attention to the statement of informant recorded under Section 164 of the Cr.P.C. and the statements of the eye-witnesses to show involvement of the applicants. Learned Counsel for the respondent no.2 would submit that the parties are at loggerheads. The medical certificates would substantiate the allegations of assault.

7. Applicant No.1 is informant in Criminal Application No.1507/2021 who lodged report with police station stating that he was assaulted by informant's father, brother and one Ganesh Vilas Pote. They were armed with sticks and rod. Akash was armed with a sword. Cash of Rs.1,40,000/- and gold ring were snatched from the informant.

8. Learned Counsel for the applicants submits that they are implicated in false case because of the property dispute and the

rivalry. It would be abuse of process of law to proceed against them. Applicant no.5 and 6 are residents of different places. Second appeal is pending in the High Court against informant.

9. Learned APP and learned Counsel for the respondent no.2 repel the submissions of the applicants. They would submit that there are injuries certificates, photographs and statements of witnesses indicating involvement of the applicants. Matter needs to be tried.

10. We have considered rival submissions of the parties. The relationship between the applicants in both the applications is undisputed. Applicant no.1 in both the applications are real brothers. They have dispute over the immovable properties. Second appeal is pending in the High Court. Applicants are residents of Brahmni. On 27.05.2021, immediately after death of father of applicant no.1 in both the applications, quarreled on the issue of property. Applicant no.1/Rajendra appears to have sustained injuries. Similarly applicant no.1/Vilas has also been assaulted. There are injured persons on both the sides who were taken to hospital and treated. Their injury certificates are also there to be seen.

11. It reveals from record that investigation was conducted in both the offences. Statement of informant/Yogita under Section 164 of Cr.P.C. has been recorded. Similarly the statement of

injured eye-witnesses have been recorded. This material would indicate involvement of applicants.

12. In cross-complaint of Rajendra, the statements of independent eye-witnesses have been recorded. There are photographs and the injury certificates of Rajendra to indicate involvement of applicants.

13. On both the sides, persons were assaulted with weapons. There is material on record to proceed against them. It would be very difficult to hold that no offence can be made out at this juncture. Both the matters do not fall within the parameters laid down in the matter of **State of Haryana and Ors. Vs. Bhajan Lal and Ors.**, AIR 1992 SC 604.

14. Hence, both the applications are rejected.

(SHAILESH P. BRAHME J.)

(MANGESH S. PATIL J.)