



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

952 CRIMINAL APPLICATION NO. 2013 OF 2023

Krushna Dhoman Mali & othersApplicants

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. H. P. Randhir, Advocate for Applicants.

Mr. N. R. Dayama, APP for the State.

Mr. P. B. Patil, Advocate for Respondent No. 2.

**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

DATE : 21st AUGUST, 2024.

PER COURT :

1. This Application has been filed for quashing First Information Report vide C.R. No. 174/2023 dated 14.05.2023 filed by Respondent NO. 2 with Parola Police Station, Parola, District Jalgaon, for offences punishable under Sections 110, 143, 147, 447, 341, 153 read with Section 34 of Indian Penal Code.

2. Heard learned Advocates for respective parties.

3. With the able assistance of the Advocates we have gone through the contents of First Information Report as well as charge-sheet.

4. Though learned Advocate for the Applicants contends that the civil suit in respect of disputed land is pending before learned Civil Judge Junior Division, Parola, however, he admits that there is no interim order passed as on the date of alleged offence. Therefore, at this stage, for quashing First Information Report as well as charge-sheet, we need not consider pendency of the said suit.

5. From the contents of First Information Report as well as charge-sheet, we are of the opinion that the ingredients of the offence punishable under Sections 110 and 153 of Indian Penal Code are not made out as the prosecution has not demonstrated as to who has abetted commission of offence, who had different intention or knowledge from that of the abettor. Further, it is not demonstrated that anyone of the accused has malignantly by anything which is illegal had given provocation to any person intending or knowing it to be likely that such provocation would cause offence of rioting and

therefore, only in respect of these two sections, the First Information Report as well as charge-sheet deserves to be set aside.

6. Application therefore stands partly allowed. First Information Report vide C.R. No. 174/2023 and the charge-sheet arising out of the same bearing SCC No. 9/2024 i.e. charge-sheet No. 175/2023 pending before the learned Judicial Magistrate First Class, Parola stands quashed and set aside to the extent of offences under Sections 110 and 153 of Indian Penal Code as against all the accused.

7. We clarify that for rest of the offences, the matter to proceed.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

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