



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1811 OF 2021

- 1] Ninad S/o Rajendra Dev
- 2] Sunita S/o Rajendra Dev
- 3] Rajendra S/o Sadashiv Dev

.. Applicants

Versus

- 1] The State of Maharashtra
Through, The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar
- 2] The In charge Investigation Officer,
Police Station Kotwali, Ahmednagar,
Dist. Ahmednagar

- 3] Vasantrao Keshavrao Palve (Orig. Complainant)

.. Respondents

...
Advocate for applicants : Mr. Ajay T. Kanawade
APP for the respondent – State : Mr. P.R. Bharaswadkar
Advocate for respondent no. 3 : Mr. D.K. Dagadkhair
...

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

DATE : 1 APRIL 2024

ORDER (MANGESH S. PATIL, J.) :

By way of this application under section 482 of the Code of Criminal Procedure, the applicants are seeking quashment of crime no. 427 of 2021 registered with Police Station Kotwali, Dist. Ahmednagar for the offences punishable under section 336, 427 r/w. 34 of the Indian Penal Code and the subsequent chargesheet.

2. We have heard both sides finally, with consent.

3. The respondent no. 3 who has been occupying a premises belonging to the applicants, on rent, alleges in the FIR that due to COVID times, he had closed the shop and the office in the rented premises between April 2021 and June 2021. On 07-06-2021, when he opened the shop and the office, he noticed that the furniture, clothes, documents were damaged by seepage of the water from the ceiling, walls were also damp. When he went to the terrace, he noticed that the drainage line for allowing the rain water to flow was blocked with bricks, earth pots, tins and cement blocks as well as iron pipes thereby preventing the water to drain out. As a result, due to logging of the water on the terrace, the water had sipped down in the rented premises damaging everything and this was done by the applicants intentionally to cause physical harm to him and his family members and constitutes the offence under section 336 and 427 of the Indian Penal Code.

4. The learned advocate for the applicants would take us through the papers to demonstrate that a civil dispute has been going on between the two sides. The applicants have succeeded in obtaining a decree for eviction of the respondent no. 3 from the demised premises. A false and concocted FIR has been lodged to pressurize the applicants. It would be abuse of the process of law to allow the applicants' prosecution to go on. The condition of the demised

premises was dilapidated. It was a natural process. The applicants did not trigger anything and the crime and the criminal case be quashed.

5. As against this, the learned APP and the learned advocate for the respondent no. 3 would also take us through the papers. They would submit that though there is no dispute that the respondent no. 3 is applicants' tenant in the demised premises and there is decree for eviction, they would submit that there is enough material to reveal complicity of the applicants. There are eye witnesses who had seen the applicants dump the garbage so as to block the rain water. Apart from the present crime, several other crimes have been registered against the applicants on the allegations made by the respondent no. 3. All these matters are still pending. This is not the stage to cause any interference merely because the applicants have succeeded in having a decree of eviction.

6. We have considered the rival submissions and perused the papers.

7. Accepting the allegations in the FIR at their face value would demonstrate that the applicants, *prima facie*, have indulged in the acts endangering the safety of the respondent no. 3 and his family members by resorting to the mischief by blocking the drainage line.

8. Though obviously, there is a bad blood between the two sides, being a dispute between a landlord and a tenant, the version of the latter is not isolated. There are at least four individuals who actually have seen the applicants dump something on the terrace, namely, Kalidas Krishnanath Rasne, Prashant Sabaji Vare, Sagar Satish Kukkadwad, Vishal Vilas Shelke. There are photographs as well, collected during the investigation which *prima facie* corroborate the prosecution version.

9. Bearing in mind the limited jurisdiction vested in this Court under section 482 of the Code of Criminal Procedure, in our considered view, there is enough material revealing complicity of the applicants in commission of the crime. It is not a matter of concoction or false implication.

10. The application is rejected.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/