



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

18 CRIMINAL APPLICATION NO. 2504 OF 2023

**LAXMAN KALU JADHAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

.....
Advocate for Applicant : Mr. A.K. Shingare h/f. Shingare K. F.
APP for Respondents/State : Mr. N.D. Batule
Advocate for R/2 : Mr. Shaikh Ashraf Patel
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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 21.10.2024**

PC.:-

1. Heard at length the learned counsels appearing for the respective sides.
2. By the present application under Section 482 of the Cr.P.C. the Applicants prayed for quashing and setting aside the complaint RCC No.132/2022 pending on the file of the learned JMFC, Aurangabad (Court No.15) as well as the order dated 04.01.2022, whereby the process is issued against them for the offence punishable under Section 465, 448, 427, 323, 504, 506 read with Section 34 of the I.P.C.
3. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. The present Respondent No.2 filed a

complaint before the JMFC alleging that he and the accused are close relatives. The Respondent No.2 is having house at village Pimpri Raja, Tq. & Dist. Aurangabad. The Applicants are having agricultural field at village Karhol. On the day of the incident, the Respondent No.2 had visited the field with his family members. On 02.06.2021, the present Applicants/Original Accused had broken the lock of his house and took illegal possession. So also, the Accused have thrown away Complainant's domestic articles worth Rs.3,000/-. After receipt of message, on 11.06.2021, he visited at his house i.e. the place of incident. Thereafter, he inquired with the accused persons but at that time all the Accused persons abused him in filthy language and issued life threats. According to the Complainant, the witnesses gave understanding to the Accused persons. Thereafter, on 12.06.2021, he approached Police Station, Karmad to lodge a report, however, the concern Police Officer gave him understanding to approach the Court. Accordingly, he filed a complaint RCC No.132/2022 before the learned JMFC, Aurangabad (Court No.15). After verification is recorded, on 04.01.2022 the learned JMFC, Aurangabad (Court No.15) passed an order and issued process as against the accused for the offence 465, 448, 427, 323, 504, 506 read with Section 34 of the I.P.C.

4. The learned counsel appearing for the Applicants canvassed that the Respondent No.2-Complainant alleged about taking forcible possession of

the property by breaking the lock open on 02.06.2022, however, the Complainant himself stated in his complaint about visiting the spot of incident on 11.06.2021 i.e. after 9 days from the date of incident. Further, the Complainant stated in his statement that, on 12.06.2021, the Accused No.1- Ankush Laxman Jadhav made encroachment in his room and started storing his articles in said room. The witness no.2 Dhondiram Bhanudas Rahind stated in his statement that, on 07.06.2021, there were quarrel between Dnyaneshwar Jadhav (Complainant) and Ankush Laxman Jadhav as well with other Accused- Pandurang and Shantabai about storing articles in the room of the Complainant. Therefore, it *prima facie* appears about existence of dispute in respect of ownership, possession over the room, which is subject matter of the complaint. The witness no.2 has not stated that the Accused persons had broken the lock of the complainant's room.

5. The Applicants-Accused and the Respondent No.2-Complainant are in family relations and the dispute on account of possession of a room exists between them which is certainly in civil nature. However, just to give it a colour of occurrence of dispute of criminal nature, the complainant filed the criminal proceeding. Needless to say that, on 04.01.2022, the learned JMFC passed the impugned order in a mechanical manner and issued process as against the present Applicants. Therefore, it appears that the said complaint is

clearly abuse of process of law which does not constitute the offence as alleged by the Complainant. Therefore, the complaint bearing RCC No.132/2022 is liable to be quashed and set aside. Accordingly, I proceed to pass the following order:

ORDER:

- i) The Application is allowed.
- ii) The criminal proceeding bearing RCC No.132/2022 pending on the file of the learned JMFC, Aurangabad (Court No.15) for the offence 465, 448, 427, 323, 504, 506 read with Section 34 of the I.P.C., as against the Applicants/Accused is hereby quashed and set aside.
- iii) Ultimately, the order dated 04.01.2022 passed in RCC No.132/2022 is hereby quashed.

[Y.G. KHOBRADE, J.]