



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

CRIMINAL APPLICATION NO. 3922 OF 2019

1. Baba Mahahansa Maharaj @
Prakash Martand Patil
and others .. Applicants

Versus

The State of Maharashtra and another .. Respondents

Shri N. B. Narwade, Advocate for the Applicants.
Shri K. N. Lokhande, A.P.P. for the Respondent No. 1.
Shri M. M. Bhokarikar, Advocate for the Respondent No. 2.

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

CLOSED FOR ORDER ON : 04.03.2024
ORDER PRONOUNCED ON : 08.03.2024

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

. Heard both the sides finally at the admission stage.

2. The applicants are praying for quashment of R.C.C. No. 52 of 2019 pending before the Judicial Magistrate First Class, Yawal, Dist. Jalgaon for the offences punishable U/Sec. 142, 147, 148, 325, 323, 324, 504 and 506 of the Indian Penal Code and U/Sec. 37(1)(3)/135 of the Maharashtra Police Act.

3. The respondent No. 2 lodged a report on 04.07.2017 against the applicants and one Bhausahab Prakash Patil, who is not before us. It is alleged that on 14.06.2017, he was assaulted by

the accused persons on the issue of engagement as a forest labour. Bhausahab inflicted injury by iron rod and threatened to kill him.

4. After investigation, charge sheet was filed against the applicants and Bhausahab. They are facing prosecution in R.C.C. No. 52 of 2019 pending before the Judicial Magistrate First Class, Yawal.

5. The learned counsel for the applicants submits that no overt act is attributed to them. All allegations and the injury inflicted sustained by the informant is attributable to Bhausahab. There is delay in lodging report with the police station. It is further pointed out that order of externment passed by the learned Sub Divisional Magistrate Faijpur against the applicant No. 1 has been quashed by the High Court in Criminal Writ Petition No. 318 of 2017 vide order dated 02.03.2017. He would further submit that it would be an abuse of process of law to proceed against them.

6. The learned Assistant Public Prosecutor for the respondent No. 1 and the learned counsel for the respondent No. 2 vehemently oppose the submissions. They would submit that incriminating role is played by the applicants. There are eye witnesses and the medical certificate to show involvement of the applicants. The learned counsel for the respondent No. 2 would invite our attention to the reply filed by him. He seeks reliance on following judgments.

- I. C. P. Subhash Vs. Inspector of Police, Chennai and others reported in AIR 2013SC (Supp) 390.
- II. Jairam Nathu Salunke Vs. State of Maharashtra and another reported in AIR 2017 SC 653.
- III. Central Bureau of Investigation Vs. Aryan Singh Etc. reported in AIROnline 2023 SC 252.
- IV. Santshri Baba Maha Hansaji Maharaj Vs. State of Maharashtra reported in (2017) All MR (Cri) 1408.

7. We have considered rival submissions of the parties. We have perused papers of investigation to appreciate propriety of proceedings against the applicants. It reveals that co-accused Bhausahab Prakash Patil inflicted injury to the respondent No. 2 by iron rod and threatened him as well. Bhausahab is not before this Court.

8. First information report and the supplementary statements of the informant disclose that all the applicants were present at the relevant time. They abused and assaulted informant with a common intention. They are supporters of the main perpetrator. There are eye witnesses to the incident namely Sitaram Pundlik Patil and Manoj Bhagwan Patil.

9. We have considered the injury certificate disclosing grievous injury to the informant inflicted by Bhausahab. We have also considered statements of both the eye witnesses. They have consistently supported informant. We find that there is *prima facie* case to proceed against the applicants. It would be

too lenient to quash the proceedings at this stage. We are of the considered view that no case is made out by the applicants as per parameters laid down by the Supreme Court in the matter of State of Haryana Vs. Bhajanlal reported in *1992 SCC (CRI) 426*.

10. Learned A. P. P. and the learned counsel for the respondent No. 2 are justified in contending that a full fledged trial is necessary considering the material collected during the course of investigation. We have considered the ratio laid down in paragraph No. 4.1 and 4.2 of the judgment of the Supreme Court in the matter of Central Bureau of Investigation Vs. Aryan Singh Etc. (supra). Learned counsel for the respondent No. 2 has rightly referred to the judgment.

11. For the reasons recorded above, we reject the criminal application.

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

bsb/March 24