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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 510 OF 2024

Shivaji Narayan Patil

.. Applicant

Versus

State of Maharashtra and Ors.

.. Respondents

-
- Mr. Anurag Pratap Ghag, Advocate for Applicant.
 - Ms. Dhanalakshmi Krishnaiyer, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 19, 2024.

P.C.:

1. Heard Mr. Ghag, learned Advocate for Applicant and Ms. Krishnaiyer, learned APP for Respondent – State.

2. A valiant effort has been made by Mr. Ghag, learned Advocate for the Revision Applicant who is arrayed as accused No.3 before the Trial Court seeking discharge. His discharge Application below Exhibit “11” in Sessions Case No.72 of 2023 stands rejected by the impugned order dated 26.07.2024 which is appended at page No.97.

3. There are three accused. Accused No.1 is Vasundhara Patil; accused No.2 is Prakash Patil and accused No.3 is Shivaji Patil. Accused No.3 is the father-in-law of accused No.1. They have been charged for the offences punishable under Section 323, 324, 504 and

506 of the Indian Penal Code, 1860 (for short “**IPC**”).

4. The principal ground for seeking discharge by accused No.3 namely Shivaji Patil is that complainant and all witnesses who have deposed and recorded their statements, resultantly leading to filing of the crime report are interested and related witnesses and their statements are false. Another ground is that the First Information Report (FIR) has been lodged after undue delay which is pleaded, however it is seen that the FIR has been lodged after 24 hours of the incident. The date of incident is 23.02.2023. Precursor to the incident appears to be a boundary dispute between complainant's family members and family members of the accused with respect to their agricultural lands. Both families are incidentally related to each other. On 23.02.2023, accused No.1 confronted complainant Chaya Suryakant Patil, when she alongwith her husband Suryakant Patil were proceeding towards their fields from front of the house of accused.

5. At that juncture, accused No.1 Vasundhara Patil came out of her house, confronted the complainant and her husband raising a dispute and quarrel with respect to the boundary dispute and accused them that they were tilling their agricultural field without carrying out appropriate measurement and during that confrontation slapped complainant's husband. On hearing the commotion, accused No.2 who was present inside the house came out, picked up a stone and hurled it

at the complainant. Fortunately, the complainant dodged and missed the trajectory of the stone and did not receive any injury. After hearing the commotion, complainant's son Shishir and two other neighbours alongwith him arrived at the spot of incident and confronted accused Nos.1 and 2. Accused No.2 at that point abused and threatened the complainant and her family members with a sickle in his hand. In the course of giving threat, he also hit the sickle to the body of the son of the complainant i.e. Shishir who received a minor injury and was saved due to the thick sweater worn by him.

6. One of the person who had arrived alongwith the son of complainant namely Ashutosh was also slapped by accused No.2. After hearing this commotion, four other neighbours namely, Dipak Shinde, Hanmant Sawant, Sushant Desai and Vikas Sawant came to incident spot and attempted to separate the parties involved in the skirmish. All four witnesses have recorded their statements stating that they attempted to resolve the conflict and separate the warring groups. At this stage, accused No.3 – Shivaji Patil, (Revision Applicant before me) father-in-law of accused No.1 came from inside the house with a stick and hit the complainant on her back. At the time of making submissions, a direct question was put to the learned Advocate for Applicant by me and he informed me that after hearing the commotion accused No.3 came out of his house which was at a further distance where he was residing. It is however a fact which is borne out of the

record that accused No.3 and accused No.1 stayed in the same house. This fact was suppressed by the learned Advocate for the Applicant while arguing the matter. It is only on reading the FIR that the relationship and the address of the accused have been stated and when this Court gathered the knowledge about the above fact, which was admitted by the Advocate.

7. The stone and sickle used by accused Nos.2 and 3 have been recovered and find mention in the recovery panchnama which is a part of the charge-sheet. What is significant to note is the fact that statements recorded of the witnesses when seen show that the eye witnesses to the incident are not interested and related witnesses at all. This submission *prima facie* on the face of record is false. Names of the independent witnesses whose statements are appended at page Nos.86, 87, 88 and 90 namely that of Dipak Shinde, Sushant Desai, Vikas Sawant and Hanmant Sawant clearly show that they are all neighbours of the parties involved in the conflict. I have perused the statements of the independent witnesses which have been appended to the Application and on going through the same, I do not have the slightest of hesitation in my mind that accused No.3 can be discharged or he has made out any case for seeking a discharge in the present case. His role is clearly enacted in the statements of all eye witnesses and the complainant. No one has denied his act of hitting the complainant with the stick on her back.

8. Mr. Ghag, learned Advocate for Applicant i.e. accused No.3 would submit that accused No.3 is 80 years old and due to his advanced age cannot do his work properly. Though the fact that accused No.3 may be of an advanced age, but he has taken law into his hands. *Prima facie* case has made out by the prosecution which deserves to be believed on the basis of the material on record and trial is imminent.

9. The order dated 26.07.2024 deserves to be upheld. I do not find any reason to interfere with the said order.

10. Criminal Revision Application is dismissed.

[MILIND N. JADHAV, J.]

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