

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

CRIMINAL APPLICATION NO.989 OF 2022

Babu Rama Rathod & Ors.

...Applicants

Versus

The State of Maharashtra and Anr.

...Respondents

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Mr. Ashok B. Tajane a/w Mr. Yuvraj A. Tajane, Advocate for the Applicants.

Mr. Vishwanath Patil, Advocate for Respondent No.2.

Mr. A.S. Shalgaonkar, APP for the Respondent No.1 – State.

Mr. Pradip Mahadeo Bansode (H.C.), Solapur Taluka Police Station, Solapur Rural, present.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 23rd APRIL, 2024.

P.C.:

1. The applicants have invoked inherent powers of this Court under Section 482 of the Code of Criminal Procedure challenging the proceedings in R.C.C. No.361 of 2021 pending before the Court of learned J.M.F.C. Solapur arising out of First Information Report (FIR) dated 26.08.2016 registered with Solapur Police Station vide C.R. No.360 of 2016.

2. The FIR has been registered at the instance of Respondent No.2 for offences under Sections 363, 143, 147, 148, 149, 447, 427 of Indian Penal Code (IPC) and Section 135 of the Bombay Police Act, 1951.

3. The brief facts of the prosecution case are as under:

i) The complainant is friend of Sachin Shamrao Ukrande. Property bearing Gat No.84/1, 2, 3, 4 at Village Doddi is purchased by Sachin Shamrao Ukrande on 29.04.2016.

ii) Sale Deed has been executed. Possession of the property is with Sachin Ukrande.

iii) Mr. Babu Rathod was interested in purchasing the property. He was troubling Sachin Ukrande. The complainant was utilising the land at the instance of Sachin Ukrande, Reku Rathod and son of Babu Rathod were threatening him. He was warned not to enter in the property. At the instance of Babu Rathod, tin shed was erected by Vikas Chavan near the property. The complainant informed about it to owner of property.

iv) On 26.08.2016 the complainant and others were at the agricultural land. Babu Rathod, Reku Rathod and son of Babu Rathod came to the spot. Reku Rathod demanded the

documents regarding the agricultural land. The complainant called to the purchaser of property. Sachin Ukrande sent documents within Samir Mujawar and Prakash Awate about 10 to 12 persons came to the spot. They gave blows by iron rod on the motor cycles parked nearby. Some of them assaulted Prakash Awate. Babu Rathod, Reku Rathod, Son of Babu Rathod, Vikas Chavan were instigating assailants. Some of them threatened the complainant and others. The complainant Guru Pawar, Rahul Kore ran towards village.

v) The accused forced Prakash Awate to sit in their vehicle and took him in the car. The complainant tried to contact Prakash Awate on his cell phone. It was found switched off. Prakash Awate was assaulted.

4. Learned Advocate for the Applicant Mr. Tajane submitted that the complainant is acting at the behest of Sachin Ukrande, who had allegedly purchased the property from Vidyadhar Balgi. The applicants are falsely implicated. Applicant No.4 is the purchaser of the property. The entire case is based on the concocted version of complainant. The FIR was registered out of vendetta. The FIR is lodged to pressurise the accused. There is no corroborative evidence to support the version of complainant. Complainant is

acting at the behest of Vidyadhar Balgi. The owner of property had entered into transaction with the accused. Isar Pavti was executed in 2014. Amount of Rs.20 Lakhs was paid to the complainant. *Lis pendens* was registered by the accused with regards to the said property. Notice was published in the newspaper. Suit is filed by the Applicant No.4. The allegations of assault are not supported by any medical evidence. The registration of FIR suffers from malafide. There is no evidence in the charge-sheet to substantiate the charges.

5. Learned A.P.P. and learned Advocate for Respondent No.2 submitted that the version of complainant cannot be disbelieved at this stage. Prima facie case is made out in the FIR. The Isar Pavti is fabricated document. It has been created to support the claim of the applicant No.4. The accused have no right in the property. Sale Deed has been executed. 7/12 extract is in the name of the complainant. Specific role has been attributed to all the accused. They gathered at the scene of offence. The grounds urged by the applicants are based on disputed question of fact. The application is devoid of merits and deserves to be dismissed.

6. We have perused the charge-sheet and documents on record. There are specific allegations against the accused. One of the

witness Prakash Awate was abducted. His statement was recorded. He has categorically stated that the accused took him in the Court under coercion and subsequently dropped. The statement of complainant is corroborated by other witnesses. Statement of eye witnesses have been recorded. We have perused the statements of Prakash Awate, Sachin Ukrande. Statements of Gurunath Pawar, Rahul Kore refers to incriminating circumstances against the accused. The driver of the vehicle corroborates the version of Prakash Awate. In the light of the FIR, the proceedings cannot be quashed. The application is required to be dismissed.

ORDER

Criminal Application No.989 of 2022 is dismissed and disposed off;

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)