

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 605 OF 2024

Mr. Shridhar Kacharu Mhaskar & Ors.Applicants

Vs.

The State of Maharashtra & Anr.Respondents

WITH

CRIMINAL APPLICATION NO. 610 OF 2024

Mr. Balaram Govind Mhaskar & Ors.Applicants

Vs.

The State of Maharashtra & Anr.Respondents

Mr. Robinsingh Palthiya for the Applicants in APL/605/2024 and for the Respondent No. 2 in APL/610/2024.

Mr. Akshay Katariya (through V.C.) for Respondent No. 2 in APL/605/2024 and for the Applicants in APL/610/2024.

Mr. V. N. Sagare, A.P.P. for the Respondent-State.

PS.I. Mr. A. M. Jadhav and PI. Mr. Rajendra Landge, I.O., Badlapur (West) Police Station present.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 23rd AUGUST 2024.

P.C.:-

1) This is yet another case wherein investigation of an offence under Section 307 with other related offences of the Indian Penal Code (I.P.C.) is conducted in most lackadaisical and lethargic manner. The

manner of investigation is sufficient to raise doubt regarding integrity of the investigation, only to support the accused.

2) The First Information Report lodged by Suraj Mhaskar is self-eloquent. There is an allegation of use of a sword and an iron rod in the crime. It is also alleged that, the mother of Suraj was also a victim in the said assault. She was immediately taken to Badlapur (West) Police Station after the assault wherein the Police gave her a letter and sent her to the Rural Hospital at Badlapur.

3) On our query, the Police Sub-Inspector, Mr. Jadhav, personally present in the Court informed us that, neither the statement of mother of Suraj is recorded nor her medical certificate is taken by the Police, till date. It is also submitted by the prosecution that, since the Applicants gave a letter to the Police that they intended to settle the matter, the investigation was curtailed.

4) We are surprised to hear this submissions on behalf of the State of Maharashtra. The offence alleged herein is under Sections 307, 397 and other related sections of the I.P.C. *Prima-facie* it appears that, the offence alleged against the accused persons is serious in nature.

5) Perusal of the medical certificate of Balaram Mhaskar *prima-facie* indicates that, the Medical Officer of Sub-district Hospital at Badlapur, District-Ambarnath has issued it with utmost casualness and under the pressure of Applicants herein.

- 6) Upon perusal of the case-diary, the learned A.P.P. submitted that, there is no reference or mention in the case-diary of the concerned date regarding accepting the compromise deed between the parties herein.
- 7) It is the settled position of law that, an offence under Section 307 read with 397 and other related sections of the I.P.C. is an offence against the society at large and the Investigating Officer ought to have completed the investigation, despite purported intent to settle as expressed by the parties.
- 8) It appears that, the Investigating Officer of the present crime is reluctant to conduct investigation and is acting under the pressure and/or direction of the accused persons. We will not be surprised if the informant tomorrow says that, he was forced to execute consent Affidavit by use of muscle power by the Applicants.
- 9) According to us this is a mockery of criminal justice system at the hands of Investigating Officer of the present crime.
- 10) It is for the State to investigate the crime / serious offences as in the present case under Section 307/397 of the I.P.C. and the State cannot be a silent spectator to offences being committed and thereafter compromised by the parties herein, for whatever reasons.
- 11) In view of the aforestated disturbing facts, we deem it appropriate to bring this matter to the notice of Commissioner of Police, Thane and direct him to file a detailed Affidavit to the Applications. The

Commissioner of Police, Thane shall not delegate his powers to file Affidavit to any subordinate Officer.

11.1) The said Affidavit be filed within a period of two weeks from today.

12) Stand over to 13th September 2024.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)