

Mr. Sandeep Katke a/w. Mr. Akshay Naidu for Applicants.  
Mr. Tanveer Khan, APP for Respondent-State.  
Mr. Vaibhav Gaikwad for Intervenor.  
Mr. Hanumant Bhosale, PSI, Chatushrungi Police Station, Pune.

“8. This Court has perused the material on record. The injury certificate indeed indicates that the informant suffered injuries, including a grievous injury i.e. fracture to a finger of the informant. In this regard, a specific submission made on behalf of the Applicants will have to be considered to the effect that even if the statement of the informant is to be accepted, Section 326 of the IPC may not be applicable, as it pertains to

voluntarily causing grievous hurt by dangerous weapons or means. It is submitted that at the most, Section 325 of IPC may be applicable, wherein prescribed punishment is imprisonment for a term which may extend to seven years.

9. This Court is of the opinion that there is *prima-facie* substance in the contention raised on behalf of the Applicants with regard to applicability of Section 326 of IPC, for the reason that the Applicant No.2 allegedly used the wooden handle of the Spade and not the metallic part. To that extent, the use of the said tool may not fit the description of a dangerous weapon. Apart from this, it is specifically stated in the Application that the Applicants have already filed an Application under Section 156(3) of the Cr.P.C. before the jurisdictional Magistrate at Pune on 20.03.2024, against the informant for the offences under Sections 420, 465, 467, 471, 447, 448 r/w 34 of IPC. While learned APP can verify details of the same, filing of such an Application prior in point of time *prima-facie* does indicate that the parties appear to be at loggerheads. In such a situation, so long as the Applicants appear before the Investigating officer and co-operate with the investigation, interim relief can be granted.”

5. Today, Mr. Gaikwad, learned counsel, having instructions on behalf of the first informant, has appeared in Court and he submits that he would like to point out that the applicants had suppressed the fact that the application moved on their behalf under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) was already rejected when the interim order dated 14.08.2024 was passed by this Court. It is submitted that an impression was given to this Court that the application was pending and in face of such facts, this Court may dismiss the application.

6. A perusal of a copy of the order dated 01.07.2024 passed by the Judicial Magistrate First Class at Pune indeed shows that an application moved under Section 156(3) of the Cr.P.C. on behalf of the applicants was rejected.

7. It appears that the learned counsel for the applicants was not

instructed properly in the matter.

8. Be that as it may, the pendency of the application before the Magistrate under Section 156(3) of the Cr.P.C. was not the ground on which the interim relief was granted by this Court. The above-quoted portion of the interim order shows that this Court took into consideration the manner in which the weapon of assault in the present case i.e. spade / shovel was used by the applicants, which was the determinative factor for arriving at a conclusion that a *prima facie* case was made out. Even as per the allegation of the informant, the wooden handle of the spade / shovel was used during the course of the incident.

9. In that light, this Court is of the opinion that the reasons recorded in the above-quoted portion of the interim order hold good for allowing the application itself, particularly in the light of the fact that the applicants have co-operated with the investigation and that they have abided by the directions given by this Court.

10. In view of the above, the interim order dated 14.08.2024 is confirmed. The application is allowed, subject to the applicants continuing to co-operate with the investigation. They shall not tamper with the evidence of the prosecution in any manner. They shall also not influence the informant, witnesses and other persons concerned with the case.

**(MANISH PITALE, J.)**

*Minal Parab*