



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.423/2023

1. Jayant S/o Shrikrishna Bhalerao,
aged about 56 Yrs., Occ. Service,
R/o F-705/706, Whispering Palms
XXClusive Lokhandwala Township,
Akruli Road, Near Mahendra Gate
No.3, Kandivli (East), Mumbai 400 101
(Accused No.25)

2. Shashikant S/o Yashwant Rajurkar,
Aged about 57 Yrs., Occ. Service,
R/o Near NIV, C/4, Vishwakarma
Nagar, Sr. No.148/5, SUS Road,
Pashan, Armament, Pune 411 021.
(Accused No.50)

... Petitioners

- Versus -

State of Maharashtra,
through Police Station Officer,
Police Station, Gadge Nagar,
Amravati, Tah. & Dist. Amravati.

... Respondent

Mr. P. R. Agrawal, Advocate for the Petitioners.

Mr. M.J. Khan, A.P.P. for Respondent /State.

CORAM: VINAY JOSHI AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : 12.2.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. This petition seeks to quash chargesheet arising out of Crime No.0266/1987 registered by respondent for the offence punishable under Sections 395, 147, 148, 149, 353, 332, 333, 324, 325, 336, 337, 447 and 427 of the Indian Penal Code read with Section 4/25 of Arms Act and Section 135 of the Maharashtra Police Act.

3. Incident dates back to 36 years i.e. of the year 1987 wherein there was a free fight in between two colleges situated opposite to each other. After three and half decades the matter has come up before us for quashing. Chargesheet was filed against total 89 accused out of which applicant No.1 Jayant S/o Shrikrishna Bhalerao is arraigned as accused No.25 and applicant

No.2 Shashikant S/o Yashwant Rajurkar is arraigned as accused No.50.

4. The prosecution case in nutshell is that on the date of occurrence there was a huge commotion and quarrel in between two groups of college students which took ugly turn causing damage to the property as well as injuries to several. Two colleges namely Engineering College and V.M.V. College are situated opposite to each other in Amravati. Students of both colleges were in rival terms. Initially there was minor bickering on 14.9.1987. In the afternoon large number of Engineering college students gathered with sticks, stones, bottles and started to assault on the students of V.M.V. college. The police tried to pacify, however, the students of Engineering College did not listen. The attack was tried to be defended and retaliated by students of V.M.V. College. However, again huge number of engineering students which were 400 to 500 in number have entered into V.M.V. College and assaulted the students. Not only that,

Engineering College students have also assaulted police and caused injury to several police. In said incident hundreds of people including students, police, passersby got injured and therefore, police officer has lodged the report on 14.9.1987 on the basis of which crime has been registered.

5. The investigation was carried out in which statements of 74 witnesses have been recorded. After completing necessary formalities chargesheet has been filed on 6.11.1987. The case was numbered and renumbered time to time and finally it bears Sessions Case No.421/2019. It is informed that there is no progress in the trial as yet Court has not framed charge. At this juncture applicants have come up before us seeking exercise of inherent powers to quash the proceedings.

6. The applicants learned Counsel would submit that perusal of police report and the material collected during the course of investigation does not make out *prima facie* case. It is

submitted that statements never bear the names of applicants as an assailant. According to the applicant they have been named in the F.I.R. in the category of injured victim. Lastly it is submitted that the applicants were not aware about the present proceedings which they came to know in the year 2011 and 2018 respectively. The applicants learned Counsel would submit that by the time they have completed their engineering and got settled in life and after gap of 36 years it is unjust to face prosecution that too without substance.

7. The State opposed the application by filing reply affidavit. It is stated that though applicants' names were not stated by either of the witnesses but they were present at relevant time. According to State the offence is of serious nature and mere presence on the spot is sufficient since the police have invoked provisions of Section 149 of the Indian Penal Code.

8. With the assistance of both sides we have examined the police papers. Undisputedly F.I.R. bears reference of both applicants in the category of injured in the occurrence. Though police have recorded statements of 74 persons, however, admittedly none of them has stated name of applicants apart from their role. True, the applicants were studying in Engineering College of whose students were aggressive at relevant time. Merely because applicants were students of Engineering College, on mere surmises and conjunctures criminal liability cannot be fastened. The entire material only discloses that applicants got injured in the occurrence. The said material even if accepted at its face value does not make out a *prima facie* case against the applicants. Besides that it is a very sorry state of affairs that after 36 years even the trial has not commenced. Perhaps due to number of accused and the general reference of most of them might have become an obstacle to trace the past engineering students who perhaps have been settled in the various parts of the country. The material made available during the course of

investigation does not make out a case to constitute charged offence against the applicants. In view of the above facts, we deem it necessary to exercise our inherent powers to secure the ends of justice.

9. In view of above, application is allowed.

We hereby quash and set aside chargesheet in Sessions Case No.421/2019 arising out of Crime No.0266/1987 registered by the respondent for the offence punishable under Sections 395, 147, 148, 149, 353, 332, 333, 324, 325, 336, 337, 447 and 427 of the Indian Penal Code read with Section 4/25 of Arms Act and Section 135 of the Maharashtra Police Act against applicant No.1 Jayant S/o Shrikrishna Bhalerao (accused No.25) and applicant No.2 Shashikant S/o Yashwant Rajurkar (accused No.50) only.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)