



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

24 CRIMINAL APPLICATION NO. 754 OF 2023

1. Satish Rajanna Donkalwar
Age 39 Yrs, Occu. Service
2. Santosh Vitthalrao Kankawar
Age 52 Yrs, Occu. Service
Both R/o. Dundra, Tq. Kinwat,
Dist. Nanded.

...Applicants

Versus

1. The State of Maharashtra
2. Ramreddi Ramkishtu Ietwar
Age. 72 Yrs, Occu. Agri.,
R/o. Dundra, Tq. Kinwat,
Dist. Nanded

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Mr. Jadhav Satej S. & Mr. Chudiwal Niraj Pradeep, Advocate for Applicants

Mr. N. R. Dayama, APP for Respondent/State.

Mr. D. S. Patil h/f. Mr. Gangakhedkar Shailendra S., Advocate for Respondent No.2

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**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATED : 27th MARCH 2025

PER COURT :-

1. Present application has been filed initially for quashing the FIR vide C.R. No.149 of 2022 registered at Sindkhed Police Station, Dist. Nanded for the offences punishable under Sections 143, 147, 149, 435, 336, 323, 504, 506, 427 of the Indian Penal Code, 1860 (for

short “IPC”) and later on by way of amendment proceedings in Regular Criminal Case No.23 of 2024 filed before the learned Judicial Magistrate, First Class, Mahur, Dist. Nanded.

2. Heard learned Advocate for the applicants, learned Advocate for respondent No.2 and learned APP for respondent/State. With the able assistance of the learned Advocates, we have gone through the contents of the FIR and chargesheet. Though, it appears from the contents of the chargesheet that the dispute arose due to the political rivalry and it was after the Grampanchayat election results were declared, yet there is evidence in the form of CCTV footage and therefore it cannot be stated that the entire FIR is false or fabricated. Now, the only question is which offences are made out. Perusal of the FIR and the statements would show that more than hundred persons had gathered and they were shouting slogans in front of the house of the informant as the informant's wife had lost the elections. In the facts it is stated that election symbol of wife of the informant was Television and since he had lost the election, the persons who had taken out victory procession had brought old Televisions which were damaged in front of the house of the informant and then they were set to fire. The transcript of CCTV footage also does not show that there was any damage caused to the house of the informant and

therefore, we are of the opinion that the ingredients of the offence under Section 336 of IPC i.e. the act endangering life or personal safety of others has not been committed. The ingredients of the said offence require the prosecution that to prove that the act which has been allegedly done was rashly and negligently done to endanger human life or the personal safety of others. The informant or his wife were not present nearby the area where this Televisions were damaged and set to fire. Further we are also of the opinion that ingredients of Section 435 of IPC are not made out. The said Section require mischief to be committed by fire or explosive substance with intent to cause damage to amount of one Hundred or (in case of agricultural produce) Ten Rupees. Section 425 of IPC defines mischief which states that whoever with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys its value or utility, or affects it injuriously, commits mischief. It is held that Television sets brought by the accused themselves and they have damaged it so there was no loss to the informant.

3. We are also of the opinion that the other sections are *prima facie* made out and therefore at the most case is made out for exercise

of power under Section 482 of Code of Criminal Procedure, 1973 for quashing of the FIR and the proceeding partially, to the extent of Sections 336 and 435 of IPC. Hence we proceed to pass following order:-

ORDER

- (i) The application stands partly allowed.
- (ii) The proceedings in Regular Criminal Case No. 23 of 2024 pending before learned Judicial Magistrate First Class, Mahur, Dist. Nanded arising out of FIR vide C. R. No.149 of 2022 registered with Sindkhed Police Station, Dist. Nanded stands quashed and set aside to the extent of offences under Sections 336, 435 of IPC as against applicant No.1-Satish Rajanna Donkalwar and applicant No.2- Santosh Vitthalrao Kankawar. The matter to proceed against them for the other offences.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE