



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 868 OF 2024

1. Lalit Kishanchand Demala
Age. 70 Yrs, Occu. Business,
2. Sau. Nita Lalit Demala
Age. 65 Yrs., Occu. Household,
3. Harsh Lalit Demala,
Age. 39 Yrs, Occu. Business,
4. Bahawana Harsh Demala,
Age. 37 Yrs, Occu. Household,
5. Sagar Surendra Motwani,
Age. 48 Yrs, Occu. Business,
6. Vijay Ramdas Gunjal
Age. 27 Yrs, Occu. Service,
All R/o. Krishna Sadan, Plot No.38,
Jainagar, Zilla Peth, Jalgaon,
Tq. & Dist. Jalgaon.

... Applicants

Versus

1. The State of Maharashtra.
2. Surekha Kamlesh Maru
Age. 69 Yrs, Occu. Business,
R/o. Krishna Sadan, Plot No.38,
Jainagar, Zilla Peth, Jalgaon,
Tq. & Dist. Jalgaon.

At present r/o. Yash Plaza Building
Gold City Hospital, Pimprala Road,
Jalgaon. Tq. & Dist. Jalgaon.

... Respondents

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Mr. Satej S. Jadhav, Advocate for Applicants.
Mrs. R. P. Gour, APP for respondent No.1 / State.
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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 17th June, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashment of the FIR bearing Crime No.0387 of 2023, dated 2nd December, 2023, registered at Ramanand Nagar Police Station, District Jalgaon, for the offences punishable under Sections 454, 457 and 380 read with 34 of the Indian Penal Code, 1860 (for short “the IPC”).

3 The respondent No.2 / informant averred in the report that she is a businesswoman and presently residing at Yash Plaza Building, near Gold City Hospital, Pimprala Road, Jalgaon. She had been residing alongwith her husband in a flat situated on the first floor of the building known as “Krishna Sadan”, Plot No.38, Jalgaon, for the past 35 years on a rental basis. The owner of the said flat, namely applicant No.1 – Lalit Kishanchand Demala, also resided on the ground floor of the same building. Applicant No.1 had initiated civil

proceedings against the informant and obtained an ex-parte decree from the competent civil court for eviction, thereby directing the informant to vacate the premises. In response, the informant preferred an appeal against the said decree and the matter of possession is still pending. Despite being aware of this, applicant No.1 continued to pressurize the informant to vacate the premises. The informant and her husband had informed him that they would abide by the decision of the Court in the pending appeal.

4 The informant further averred that on 18th April, 2023, she had travelled to Pune for medical treatment and her husband had gone to Indore for professional reasons. During this period, their domestic help, Vatsalabai Uttam Hire, was regularly visiting the house for cleaning. However, on 7th May, 2023, due to illness, she could not report for duty. On the next day i.e. 8th May, 2023, when Vatsalabai visited the house for routine cleaning, she noticed that the main wooden door of the informant's flat had been removed and replaced with an iron door. Vatsalabai immediately informed Shruti Shah, a resident of the second floor, who then telephonically informed the informant that applicant No.1 had installed the iron door. Upon receiving this information, the informant and her husband immediately returned to Jalgaon. However, upon arrival, they found the staircase gate locked. When they approached applicant No.1 regarding the

same, he informed them that since the Court had ordered eviction, they should no longer enter the premises. Consequently, they temporarily took shelter at the residence of the informant's brother Atul Satish Jain in Jalgaon City. On 9th May, 2023, the informant submitted a written complaint to the Superintendent of Police, Jalgaon. The matter was forwarded to the Tahsildar under Section 145 of the Cr.P.C. Subsequently, the Tahsildar issued a notice and initiated proceedings under Section 145 of the Cr.P.C. During these proceedings, an order was issued by the Executive Magistrate and Tahsildar, Jalgaon, directing both parties to maintain *status-quo* in respect of that property and restrained them from committing any act, which may breach peace and disturb public order.

5 The informant further averred that a site inspection was scheduled by the Tahsildar on 6th July, 2023 at 11:00 a.m., and accordingly, both parties were summoned with necessary documents by letter dated 3rd June, 2023. However, on 22nd June, 2023, the informant received a phone call from her domestic help, Vatsalabai, informing her that applicant No.1 alongwith applicant Nos.2 to 6 had entered the informant's flat without consent and removed the household articles. Thereupon, the informant submitted an urgent application to the Executive Magistrate for site inspection and hearing and accordingly, a *Panchanama* was drawn up on 6th July, 2023, in the

presence of both parties. During the inspection, GPS-tagged photographs were taken of the furniture, cupboards, kitchen, and bathroom.

6 The informant further averred that upon such inspection, it was revealed that the following articles had been stolen from that flat:-

- i. Cash amount of ₹5,10,000/- kept in a bag inside the cupboard.
- ii. Gold ornaments weighing approximately 50 tolas (as received at the time of her marriage in 1976 from her parents and relatives), valued at around Rs.5,00,000/- as per 1976 valuation.
- iii. Antique silver utensils worth approximately Rs.2,00,000/-.
- iv. Diamond and ruby-studded ring worth approximately Rs.2,00,000/-.
- v. Household items worth Rs.4,50,000/-.
- vi. One black rectangular Rado wristwatch (used) worth approximately Rs.45,000/-.
- vii. One Cartier gold and silver round wristwatch worth approximately Rs.65,000/-. And
- viii. Important documents including cheque-books, bank passbooks (HDFC, Mahavir Bank, Janata Bank, Union Bank), locker keys, property documents, income tax documents, Aadhaar card, election card, PAN card, etc.

7 Thus, the total value of the stolen property amounted to approximately Rs.19,70,000/-. The informant finally averred that on 22nd June, 2023, all the aforementioned movable property, including valuables, jewellery, cash, and documents, had been dishonestly removed from the informant's residence by the applicants without her knowledge, consent, or authority and with fraudulent intent. Therefore, the report was lodged against the applicants.

8 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. There is no cogent and acceptable evidence against the applicants. There is no eye-witness to the incident. He further submitted that the civil suit for recovery of possession of the suit premises was admittedly disposed of. The informant is residing in Pune and her husband is residing in Indore. They have handed over the possession of the suit premises to the applicants. However, false allegations of theft are made against them. He further submitted that applicant No.1 filed R.C.S. No.147 of 2019 for recovery of possession and for rent, but the tenant i.e. informant failed to appear before the Court, therefore, the Court was pleased to pass the *ex-parte* decree. On the basis of said decree, applicant No.1 had filed R.D. No.285 of 2022 for getting possession of the flat and same is pending in the Court of learned Civil Judge, Junior Division,

Jalgaon, but meanwhile a compromise took place between the parties. The informant after receipt of five lakhs handed over the possession of rented premises to the applicants. Regular Civil Suit No.116 of 2023 is filed by applicant No.1 for injunction and declaration against the informant, who is a tenant and the same is pending. In such a situation, if the applicants are compelled to face the trial, it would be an abuse of the process of the Court. He lastly prayed to allow the application.

9 The learned APP for the State strongly opposed the application and submitted that possession is not handed over to the applicants. There is evidence of an audio call recording, in which the witnesses have stated that the applicants were involved in the said crime and they took away the said articles. Considering the fact situation of the case, the evidence against the applicants is sufficient to prove the theft of the articles of the informant. She lastly prayed to reject the application.

10 Here, it is relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable Supreme Court held thus:-

“34. it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”

11 We have perused the papers of investigation, particularly, the report and the statements of witnesses as well as the documents of the civil litigation between the parties. Civil litigation is decided in favour of these applicants. The statement of witnesses, particularly, maid Smt. Vatsalabai Hire is recorded, in which she has stated that she had not seen applicant No.1 and others while taking away the articles. Further, witness Shruti Ajay Shah also stated that she had never seen the applicants while taking away the ornaments and other articles. In the spot *Panchanama*, no article is found there in the flat. The audio call script of a conversation between the informant and Vatsalabai Hire and others is placed on record. However, the statements of witnesses, particularly, Vatsalabai Hire and Shruti Ajay Shah are very clear that they do not know as to when and how these

articles were taken away. If all these documents are considered together alongwith the above stated reasons then the essential ingredients of Sections 454, 457 and 380 of the IPC are not establishing against the applicants. Considering above reasons and the law laid down in the case of ***Mohammad Wajid and Another*** (supra), if the applicants are compelled to face the trial, it would certainly be an abuse of the process of the Court. We are, therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of the process of the Court. The application, therefore, deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. Crime No.0387 of 2023, dated 2nd December, 2023, registered at Ramanand Nagar Police Station, District Jalgaon, for the offences punishable under Sections 454, 457 and 380 read with 34 of the Indian Penal Code, stands quashed as against all these applicants.

[**SANJAY A. DESHMUKH, J.] [**SMT. VIBHA KANKANWADI, J.]****

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