



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

43 CRIMINAL APPLICATION NO.2220 OF 2024

- 1 Dattatraya Gangadhar Jamkhedkar,  
Age 60 yrs., Occ. Business,
  - 2 Rupwati w/o Dattatraya Jamkhedkar,  
Age 54 yrs., Occ. Household,
- Both are r/o RL-129-B, Jaibhawani Chowk,  
Wadgaon Kolhati Waluj Industrial Area,  
Aurangabad.

... Applicants

... Versus ...

- 1 The State of Maharashtra  
Through Police Station Officer,  
Waluj MIDC Police Station,  
Aurangabad.
- 2 Hema w/o Anil Randive,  
Age 46 yrs., Occ. Household,  
R/o RL-129-A, Jaibhawani Chowk,  
Wadgaon Kolhati Waluj Industrial Area,  
Aurangabad.

... Respondents

...

Mr. G.N. Kulkarni (Mardikar), Advocate for applicants  
Mr. A.D. Wange, APP for respondent No.1  
Mr. Savita P. Kakade (Matkar), Advocate for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI &  
SANJAY A. DESHMUKH, JJ.

DATE : 10<sup>th</sup> JUNE, 2025

**ORDER :**    ( PER : SMT. VIBHA KANKANWADI, J. )

1            Present application has been filed for quashment of the proceedings in Regular Criminal Case No.208/2024 pending before learned Judicial Magistrate First Class, Aurangabad (Court No.19), arising out of First Information Report vide Crime No.323/2023 dated 22.04.2023 registered with Waluj MIDC Police Station, Aurangabad, for the offence punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2            Heard learned Advocate Mr. G.N. Kulkarni for applicants and learned APP Mr. A.D. Wange for respondent No.1.

3            With the help of learned Advocate for applicants as well as learned APP we have gone through the contents of First Information Report and the proceedings. Respondent No.2 submits that around 11.30 p.m. on 21.04.2023 when her husband was talking with his friends in front of their house, at that time applicant No.1 started quarreling with her husband. When informant's husband asked applicant No.1 as to why he is quarreling, at that time applicant No.1 abused husband of respondent No.2 and forcibly hit the head of her husband in the ditch on the road. When informant went to separate them, at that time applicant No.2 had assaulted daughter of

informant by hand. They had given threat to kill. Husband of informant had sustained bleeding injury. All of them went to Police Station, who had then referred them to Government Hospital and Training Institute, Aurangabad (GHATI) and then she lodged the report. The supplementary statement of informant has been taken on 25.04.2023, in which she has only stated about the name of applicant No.2 (as it was not given in First Information Report). Except that there is no change made by her. Statements of injured persons i.e. husband as well as the daughter of informant are on the same line. The Medico Legal Certificate of the husband of informant viz. Anil shows that there were three injuries, those were noted; 1) Contused Lacerated Wound on right forehead and the injury is simple in nature, 2) blunt on right side of chest and simple in nature and 3) blunt on survival and simple in nature. Interesting point to be noted is that in the remark column as regards injury Nos.2 and 3, it is stated that “trauma after fall in ditch (pushed by person)”. This is not the history or story that has been given in First Information Report, in any manner. Even if we take First Information Report as it is, it shows that none of the applicants had used any instrument in order to bring an offence under Section 324 of the Indian Penal Code. There has to be the simple injury caused due to the use of an instrument which can be used for shooting, stabbing, cutting etc. When such instrument has not been used, it will not attract the ingredients of Section 324 of the Indian Penal Code,

which is the only Section of cognizable in nature and rest are non cognizable, for which the First Information Report under Section 154 of the Code of Criminal Procedure was not maintainable. When such major legal lacuna is there, it would be unjust to ask the applicants to face the trial. Case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure. We do not want to go into the other aspects, which the applicants wanted to canvass regarding the rivalry or history. Hence, following order.

### **ORDER**

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No.208/2024 pending before learned Judicial Magistrate First Class, Aurangabad (Court No.19), arising out of First Information Report vide Crime No.323/2023 dated 22.04.2023 registered with Waluj MIDC Police Station, Aurangabad, for the offence punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant Nos.1) **Dattatraya Gangadhar Jamkhedkar** and 2) **Rupwati w/o Dattatraya Jamkhedkar**.

( SANJAY A. DESHMUKH, J. )

agd

( SMT. VIBHA KANKANWADI, J. )