



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1993 OF 2023

- 1) Nivrutti S/o Dashrath Sangle,
Age-77 years, Occu:Nil,
R/o-Kherde, Taluka-Pathardi,
District-Ahmednagar,
- 2) Ashok S/o Nivrutti Sangle,
Age-48 years, Occu:Service,
R/o-Chinchpur Ijade,
Taluka-Pathrdi, District-Ahmednagar,
- 3) Janabai Nivrutti Sangle,
Age-75 years, Occu:Nil,
R/o-Kherde, Taluka-Pathardi,
District-Ahmednagar,
- 4) Smt. Pushpa Shridhar Sangle,
Age-39 years, Occu:Household,
R/o-B 102, Neptune Point,
Padhye Complex, Manor Mahim Road,
Opp. Holy Spirit School, Palghar,
District-Palghar.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through its the Superintendent
of Police, Ahmednagar,
- 2) The Investigating Officer,
Pathardi Police Station,
Taluka-Pathardi, District-Ahmednatar,
- 3) Bhausahab S/o Limbaji Sangle,
Age-40 years, Occu:Agri.,
R/o-Kherde, Taluka-Pathardi,
District-Ahmednagar.

...RESPONDENTS

...
Mr. A.G. Ambetkar Advocate for Applicants.
Mr. S.A. Gaikwad, A.P.P. for Respondent Nos. 1 and 2.
Mr. Ishwar K. Wagh Advocate for Respondent No.3.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 25th JULY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the Charge-sheet No.213 of 2017 i.e. proceedings in R.C.C. No.236 of 2017, pending before the learned Judicial Magistrate First Class, Pathardi, District-Ahmednagar, arising out of the First Information Report (for short "the FIR") vide Crime No. 215 of 2017, registered with Pathardi Police Station, District-Ahmednagar, on 20th April, 2017, for the offence punishable under Sections 452, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. Ambetkar for applicants, learned APP Mr. Gaikwad for respondent Nos.1 and 2 and learned Advocate Mr. Wagh for respondent No.3. In order to cut short, it

can be stated that the learned Advocates for respective parties have argued in support of their contentions.

3. It appears that on 20th April 2017, respondent No.2 lodged the FIR in respect of the incident that alleged to have occurred at 4.00 p.m., wherein he states that present applicant No.2 entered his house forcibly, abused him and by giving slaps assaulted him. Applicant No.2 was then followed by other three accused, applicants. All of them started saying that informant is allowed to kill anybody but he cannot kill the applicants and they would kill the informant, he can file cases against them but they will be released. As the informant's relative came, the accused persons went away. Here, we are required to consider the background which is in the form of police record itself. Earlier, on 6th April 2017, respondent No.2 lodged FIR in respect of alleged incident dated 29th March 2017, for the offence punishable under Sections 326, 323, 504, 506, read with Section 34 of the Indian Penal Code, against present applicant No.1 Nivrutti and applicant No.2 Ashok, vide Crime No.188 of 2017. He has stated that he was discharged from the hospital on 5th April 2017. It appears that on 15th April 2017, those two applicants were granted anticipatory bail by the learned Additional Sessions Judge,

Ahmednagar and in fact the other two applicants i.e. Janabai and Pushpa had also sought the anticipatory bail though it appears from the FIR that it was registered only against applicants Nivrutti and Ashok.

4. Further, it appears that on 19th April 2017, applicant Janabai had filed Non Cognizable Complaint under Sections 323, 504, 506, 427 of the Indian Penal Code with the same police station, stating that the informant had assaulted her. Interestingly the present applicants came to be arrested in the present matter i.e. Crime No.215 of 2017 on 22nd April 2017 and they were produced before the learned Magistrate on 23rd April 2017. An application has been given by the present applicants to the learned Magistrate that they have been released on anticipatory bail in Crime No.188 of 2017 and they had gone to the police station on 22nd April 2017 for giving surety as ordered, but police have made them to sit from 11.00 a.m. to 4.30 p.m. It was then stated to them that new offence has been registered against them on 20th April 2017. For offence under Section 452 of the Indian Penal Code, maximum sentence is seven years and as per the decision in *Arnesh Kumar vs State of Bihar and another, (2014) 8 SCC 273*, notice ought to have been given

under Section 41-A of the Code of Criminal Procedure. Yet, the then Police Inspector Pawar insulted them and told that he will not accept the surety. A reasoned order appears to have been passed by the learned Magistrate on 23rd April 2017, who has stated that he was satisfied with the check list and the information. The accused persons were taken in M.C.R. and appears to have been released on bail on the same day i.e. 23rd April 2017. It also appears that thereafter also an application was given by the applicants on 26th April 2017 to the Police Inspector that he should accept the surety as directed by the learned Sessions Judge in connection with Crime No.188 of 2017. This shows that there is highhanded act on the part of the police. The possibility of giving the present FIR for wreaking vengeance cannot be ruled out.

5. Except the family members of respondent No.2, there is no statement of any other person. Now, what has been stated in respect of the incident is that initially applicant Ashok came in the house, slapped the informant and then other applicants came and started saying that the informant has a right to kill anybody. The informant is ex-military man, but that does not mean that anybody can take the law in his hand and kill

anybody. If the applicants had come to kill him, then why they would go back only after slapping. Neither the informant nor the witnesses stated that they had in any way scuffled with the applicants. What has been stated is that when the witnesses came to resolve dispute, the applicants left the place. Resolving dispute without talking anything is unacceptable. In other words, separation of quarrel without physical and verbal intervention is not possible. The story also appears to be improbable and the case is covered under Guideline Nos.(3) and (5) as laid down in *State of Haryana and others vs. Bhajan Lal and others, 1992 Suppl. (1) SCC 335*. Therefore, this is a fit case for quashment of the FIR, Charge-sheet and the further proceedings arising out of the same. Hence, we proceed to pass the following order:

ORDER

(I) The Application stands allowed.

(II) The Charge-sheet No.213 of 2017 i.e. proceedings in R.C.C. No.236 of 2017, pending before the learned Judicial Magistrate First Class, Pathardi, District-Ahmednagar, arising out of the First Information Report vide Crime No. 215 of 2017, registered with Pathardi Police Station, District-Ahmednagar, on 20th April, 2017, for the

offence punishable under Sections 452, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 1 to 4 i.e. - 1) Nivrutti S/o Dashrath Sangle, 2) Ashok S/o Nivrutti Sangle, 3) Janabai Nivrutti Sangle and 4) Smt. Pushpa Shridhar Sangle.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/AUG25