



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

70 CRIMINAL APPLICATION NO.2786 OF 2024

Saurabh Shantilal Saklecha,
Age 31 yrs., Occ. Business,
R/o Plot No.102, Basant Villa,
Saklecha Nagar, Bhokardan Road,
Jalna.

... Applicant

... Versus ...

- 1 The State of Maharashtra
- 2 Balu Dnyaneshwar Garbade,
Age 26 yrs., Occ. Labour,
R/o Najik Pangari, Tq. Badnapur,
Dist. Jalna.

... Respondents

...

Mrs. Sushma T. Jadhav, Advocate h/f Mr. P.D. Suryawanshi, Advocate for
applicant

Mr. N.R. Dayama, APP for respondent No.1

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

DATE : 04th MARCH, 2025

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

1 Present application has been filed under Section 482 of the Code

of Criminal Procedure for quashing First Information Report vide Crime No.24/2023 dated 13.01.2023 registered with Police Station, Jalna, Tq. & Dist. Jalna, later on for quashing charge sheet bearing No.325/2023, for the offence punishable under Sections 324, 323, 504 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mrs. Sushma T. Jadhav holding for learned Advocate Mr. P.D. Suryawanshi for applicant and learned APP Mr. N.R. Dayama for respondent No.1. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of First Information Report would show that respondent No.2 had stated that he was proceeding on two wheeler around 5.30 p.m. on 12.01.2023. He had overtaken a scooty rider and he has given scooty number as MH 21-BM-2941. Then he says that the person on scooty stopped him and asked him as to why he has overtaken him, abused and slapped as well as assaulted with fists and then that person took out wooden stick, which was tied to the scooty, and assaulted on the head of informant, due to which informant received bleeding injury. So, at the time when he lodged First Information Report, he was not knowing name of applicant, but First Information Report was in respect of driver of said scooty. There is no eye witness to the incident. Now, the question is – whether the First Information

Report attracts offence under Section 324 of the Indian Penal Code or not, because for other offences it would be a non cognizable offence and, therefore, First Information Report under Section 154 of the Code of Criminal Procedure was not maintainable. In order to attract offence under Section 324 of the Indian Penal Code the prosecution will have to prove that a person has voluntarily caused hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which used as a weapon of offence, is likely to cause death or by means of fire or any heated substance etc. Here, the weapon that is stated to be used is wooden stick. The spot panchnama does not show that any wooden stick was seized from the spot, however, what has been recovered is a three feet long stick having diameter of 1¼ inch. That stick was not shown to the Medical Officer to get opinion, as to whether death would have been caused due to use of such stick. Though in First Information Report it is stated that informant had sustained bleeding injury to his head, the injury certificate shows that he had sustained blunt trauma on right parietal region, shape was irregular caused within 24 hours and the nature of injury was simple and the probable weapon used is hard and blunt object. Certainly, taking into consideration the diameter and the length, death would not have been caused and, therefore, the facts do not attract offence under Section 324 of the Indian Penal Code. As aforesaid, rest of the sections are non cognizable and, therefore, it would be unjust to ask

the applicant to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The Charge Sheet bearing No.325/2023 arising out of First Information Report vide Crime No.24/2023 dated 13.01.2023 registered with Police Station, Jalna, Tq. & Dist. Jalna, for the offence punishable under Sections 323, 324, 504 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant **Saurabh Shantilal Saklecha**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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