



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

7 CRIMINAL APPLICATION NO. 2335 OF 2025

01. Haridas S/o Pralhad Kshirsagar,
Age: 46 years, Occup.: Service,
R/o: Vidyanagar, Barshi Road, Beed
Tq. and Dist. Beed.
02. Vishswas S/o Pralhad Kshirsagar,
Age: 47 years, Occup.: Service,
R/o: Vidyanagar, Barshi Road, Beed
Presently Residing at Kalambnuri
Tq. and Dist. Hingoli.
03. Anjali D/o Shriniwas Adgaonkar
@ Anjali W/o Bhawanrao Deshpande,
Age: 52 years, Occup.: Service,
R/o: Bangar Nagar Hingoli
Tq. and Dist. Hingoli.

... Applicants

Versus

1. The State of Maharashtra
Through: In-charge Police Inspector,
Hingoli Rural Tq. and Dist. Hingoli.
2. Vilas S/o Chandrakant Joshi,
Age: 47 years, Occup.: Private Service,
R/o: Antulenagar, Balsond
Tq. & Dist. Hingoli.

... Respondents

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Mr. V. D. Sapkal, Senior Counsel, a/w Mr. Harsh A. Jadhav, i/b Mr. Sandip R. Sapkal, Advocates for Applicants.

Smt. R. P. Gour, APP for Respondent No.1 / State.

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

DATE : 11th July, 2025.

Per Court:

. Present application has been filed for quashing the proceedings in R.C.C. No.338 of 2019 and Session Case No.124 of 2019, pending before the learned Sessions Court, Hingoli, for the offence punishable under Sections 307, 452, 323, 504 and 506 read with 34 of the Indian Penal Code, arising out of FIR vide C.R. No.48 of 2019, dated 5th March, 2019, registered with the Hingoli (Rural) Police Station, District Hingoli, for the offence punishable under Sections 452, 323, 504 and 506 read with 34 of the Indian Penal Code.

2 Heard Mr. V. D. Sapkal, learned Senior Counsel alongwith Mr. Harsh A. Jadhav, Advocate, instructed by Mr. Sandip R. Sapkal, learned counsel for the applicants and the learned APP for the respondent No.1 / State.

3 The learned Senior Counsel appearing for the applicants has taken us through the entire charge-sheet and submits that there is already the civil dispute pending in respect of the property in question. The relationship between applicant No.3 and respondent No.2 is that of brother-in-law and wife's sister. The immovable property was

belonging to the mother of applicant No.3. The wife of the informant expired in 2016 and the mother-in-law of respondent No.2 and the mother of applicant No.3, Sudhatai Shriniwas Adgaonkar, expired in 2017. The informant states that he got married to Vaishali in 1999 and since then he was residing with his mother-in-law. Applicant No.3 and her another sister Rupali Kulkarni are married long back. The informant contends that his mother-in-law has left a Will in favour of his wife, however, the civil dispute is pending with the Civil Court. He then quotes the incident dated 5th March, 2019, which had allegedly taken place at 09:45 am. He alleges that all the applicants came and applicant No.3 had poured kerosene upon his person and when he started raising voice, a tenant in the building Baburao Haral came. At that time, applicant No.3 was about to ignite the matchstick and other two applicants were holding iron rod. Baburao snatched the matchbox from the hands of applicant No.3. However, applicant Nos.1 and 2 had assaulted the informant as well as Baburao. Applicant No.3 is stated to have given threats to respondent No.2 and asked him to vacate the premises. In the meantime, another neighbor Gunaji Pole also came to the spot and then all the three applicants left. The contents of this FIR will not attract the ingredients of Section 307 of IPC, as there was no attempt and before anything can be done, it is alleged that even the matchbox was snatched. The factual aspect, which can be said to be there that Sudhatai, mother, had sold the property to applicant No.3

and thereafter, applicant No.3 had sold the said property to applicant Nos.1 and 2 by sale-deed dated 23rd January, 2019. On 27th March, 2019, applicant Vishwas had lodged FIR vide C.R. No.78 of 2019 with Hingoli (Rural) Police Station, District Hingoli, for the offence punishable under Section 324 etc. of IPC and Sections 3(1)(s) and 3(2) (v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Therefore, the relationship between applicant No.3 and respondent No.2 were strained. The FIR is nothing but the exaggeration and false implication of the applicants. It would be an abuse of the process of law if they are asked to face the trial.

4 Per contra, the learned APP submits that there is strong *prima-facie* evidence against the applicants and now the matter is for framing charge. Let there be the trial.

5 Taking into consideration the material in the charge-sheet, it is not even necessary to issue notice to respondent No.2. Before we proceed, we are only taking note of the fact that earlier the present applicants had approached this Court by filing Criminal Application No.1607 of 2019, which came to be withdrawn on 2nd February, 2022. If we peruse the order that was passed on that day, withdrawal was sought with liberty to the applicants to file application for discharge before the Trial Court. This Court while dismissing the application as

withdrawn, had given liberty to the applicants to file such an application for discharge before the Trial Court. Now, it is not made clear as to whether such application was ever filed before the Trial Court and whether that application has been decided. Now, almost after three years, the applicants are approaching this Court and we are surprise to note that the sessions case appears to have not proceeded further. We need not go into the aspect as to who is responsible for the delay, but this is a point, which is required to be considered when we are considering the matter under Section 482 of Cr.P.C.

6 Taking into consideration the scope of the application, we find that the contents of the FIR are supported by the statements of witnesses namely, Baburao Vitthalrao Harale, Gunaji Kailas Pole, Anitabai Baburao Harale and Vitthalrao Namaji Harale.

7 The learned Senior Counsel appearing for the applicants has relied on the discrepancies in the statement of witness Baburao and the spot *Panchanama*. However, it is beyond the scope of the inquiry that is required to be made in the present matter by this Court. Of-course, there is the civil dispute that is pending, but reference of the said civil dispute is there in the FIR also. We are concerned with the incident that had allegedly taken place around 09:45 am on 5th March, 2019. The charge is yet to be framed. The Sessions Judge before

whom the trial is pending, is certainly bound to follow the procedure under Section 227 of Cr.P.C., wherein the present applicants would be heard and at that time, the applicants would be at liberty to point out whether the offence under Section 307 of IPC has been made out or not. *Prima-facie*, the FIR states that all the three applicants had entered the house of the informant with preparation and therefore, the ingredients of Section 452 of IPC are made out. Section 452 of IPC is a cognizable offence. If at all Section 307 of IPC is not made out i.e. any offence which is not triable by the Court of Sessions is made out, then as per Section 228 of Cr.P.C., the Sessions Judge may transfer the case to the Judicial Magistrate First Class or Chief Judicial Magistrate, as the case may be, and therefore, no case is made out for quashment of the FIR and the proceedings.

8 The application stands rejected at the threshold.

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

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