



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

26 CRIMINAL APPLICATION NO. 2394 OF 2023

1. Bhikan Kruparam Patil @
Bhikan Kruparam Wani
Age 74 years, Occ. Pensioner
 2. Chandrashekhar Bhikanrao Rane @
Chandrashekhar Bhikan Wani
Age 45 years, Occ. Agril.
 3. Ghanshyam Bhikanrao Rane @
Shyam Bhikan Wani
Age 43 years, Occ. Agril.
 4. Manoj Nimba Rane @
Manoj Nimba Wani
Age 28 years, Occ. Business
All R/o. Nizampur, Tal. Sakri
District Dhule
- ...Applicants

Versus

1. The State of Maharashtra
Through its Nizampur Police Station
Tal. Sakri, Dist. Dhule
 2. Ashabai Bansilal Borse
Age 53 years, Occ. Labour
R/o. Vishnu Nagar, Nizampur
Tq. Sakri, Dist. Dhule
- ...Respondents

Advocate for Applicant : Mr. Patil Vijay B.
APP for Respondent No.1: Mrs. P.R. Bharaswadkar
Advocate for Respondent No.2 : Mr. Nilesh N. Desle

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

DATED : 25th JULY, 2025

PER COURT :-

1. The present application has been filed for quashment of the

proceedings in R.C.C. No. 176 of 2022, pending before the learned Judicial Magistrate First Class, Sakri, District Dhule arising out of the F.I.R. vide C.R. No. 44 of 2022 for the offences punishable under Sections 326, 354, 323, 504, 506, 427, 34 of I.P.C.

2. Heard learned advocate for the applicants, learned A.P.P. for respondent No.1-State and learned advocate for respondent No.2.

3. Learned advocate for the applicants has taken us through entire charge sheet including the F.I.R. and he submits that the present applicant No.1 had filed R.C.S. No. 78 of 2021 before the Civil Judge Junior Division, Sakri prior to the institution of the present F.I.R., for permanent injunction and in that suit, the husband of respondent No.2 is party defendant No.3. The interim injunction was granted in favour of applicant No.1 which was in respect of immovable piece of land i.e. 58 Are from Gat No.7/1/3/2 situated at village Nizampur, Tq. Sakri, district Dhule. The incident had taken place on 16.02.2022 wherein the present applicant No.2 had received serious injuries and when he was admitted in Civil Hospital at Nandurbar, his statement was recorded on 17.02.2022 and on the basis of that statement, F.I.R. vide C.R. No.43 of 2022 came to be registered with Nizampur police station, district Dhule on 21.2.2022 for the offences punishable under sections 307, 324, 323, 427, 504 r.w. 34 of I.P.C.

4. Respondent No.2 with a malafide intention has lodged the present F.I.R. on 21.2.2022 involving the applicants. If we consider medical certificate of Ravindra, who is son of respondent No.2, then he had sustained only one injury that too simple. Even another son of respondent No.2 i.e. Mahendra Bansilal Borse had received one injury and therefore, ingredients of section 326 of I.P.C. will not get attracted which requires grievous hurt. Further it is then stated that applicant No.1 had assaulted the informant by a stick causing injuries to her back and then it is stated that her Pallu was handled in such a manner by him which amounting to outraging the modesty. All these are an exaggeration. The witnesses are interested witnesses and therefore, it would not be appropriate to ask the applicants to face the trial.

5. Per contra, the learned A.P.P. as well as learned advocate for respondent No.2 strongly object the application and submit that since charge sheet has been filed and witnesses are supporting the contents of the F.I.R. as well as since there are cross cases, let there be a trial.

6. Here, it is to be noted that from the F.I.R. lodged by applicant No.2, it appears that though his statement appears to have been recorded at Nandurbar but it was transferred to Nizampur in Dhule district. It appears that it has been registered on 21.2.2022. But the fact remains is that it is in respect of the same incident that had taken place around 10.00 a.m. on 16.02.2022. Place in both the F.I.R. is the same

in the sense that it was near the construction started by Bansilal Borse. Now as per applicant No.2, Bansilal Borse had committed encroachment in his land to the extent of 8 feet whereas the present respondent No.2 contends that the construction on the said plot is on the same place where they had their old house. Therefore, we cannot go into the aspects which is on civil side and it is pending. But the spot appears to be almost same in both the cases. It is cardinal principle of law that both the cases will have to be tried by the same Judge. Now as regards present case is concerned, there is statement of one Ritikesh Subhash Sonwane who states that he has witnessed the incident. Similar are the statements of Sunita Pitambar Wadile and Ashok Sadashiv Bedre. Therefore, there are witnesses apart from the family members and the injured in the matter. Therefore, we do not find this to be a fit case where we should exercise our power under Section 482 of Cr.P.C. The application stands rejected.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

rlj/