



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2563 OF 2023

1. Ashish Hiralal Choudhari
Age 25 years, Occ. Education
R/o. Modi Khana Jalna
Tq. and district Jalna
 2. Shubham Sudesh Gaud
Age 27 years, Occ. Service
R/o. Mhada Colony, Priti Sudhanagar
Jalna, Tq. and district Jalna
 3. Dinesh Ramlal Kuril
Age 49 years, Occ. Service,
R/o. Modi Khana Jalna
Tq. and district Jalna
 4. Yuvraj Ramlal Kuril
Age 50 years, Occ. Service
R/o. Badi Sadak, Modi Khana
Jalna, Tq. and district Jalna
- ...Applicants

Versus

1. The State of Maharashtra
Through Police Inspector
Sadar Bazar Police Station
Jalna, Tq. and district Jalna
 2. Nilesh Sunil Kuril
Age 34 years, Occ. Business
R/o. Modi Khana, Jalna
Tq. and district Jalna
- ...Respondents

.....
Ms. Samiksha Aute h/f Mr. S.S. Chapalgaonkar, Advocate for the
applicants
Ms. Rashmi P. Gour, A.P.P. for the respondent No.1
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 25th JULY, 2025**

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard learned advocate for the applicants and learned A.P.P. for respondent No.1-State.
2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the charge sheet No. 39 of 2023, dated 10.2.2023 arising out of F.I.R. No. 1012 of 2022, dated 12.12.2022 registered with Sadar Bazar police Station, Jalna, District Jalna, for the offences punishable under Sections 327, 323, 504, 506 and 34 of the Indian Penal Code, 1860 (for short "the I.P.C.")
3. The informant averred in the report that on 11.12.2022 at about 10.00 p.m. he and his brother Rahul Radheshyam Kuril proceeded to have a tea at Jalna Bus stand. When they reached near Mahesh Kirana Shop, Badi Sadak Jalna, he asked the applicants as to what happened about quarrel, the applicants abused, slapped and also gave fist and kick blows to him and threatened him to eliminate. The informant's parents came there and tried to convince them but the applicants abused them and threatened to

beat again. The applicant No.1 snatched a gold beads necklace from the person of his mother and all the applicants fled away. The report was lodged against the applicants.

4. Learned advocate for the applicants submitted that the incident in question took place on 11.12.2022, the report is lodged on 12.12.2022 and no plausible explanation is tendered for the delay caused for lodging the report. The medical evidence of informant in respect of sustaining grievous or severe injury is not produced on record. The applicants and the informant are residing in the same area, and therefore, only in order to harass the applicants on account of previous enmity, false report has been lodged. Learned advocate lastly prayed to allow the application.

5. Learned A.P.P. for respondent No.1-State objected the application on the ground that the applicants had threatened the informant and his parents with dire consequences. There is theft of gold beaded necklace from the person of mother of the informant which belongs to her and the said article is still to be recovered from the applicants and for that purpose the full-fledged trial of the case is necessary. She therefore, prayed for rejection of the application.

6. It would be relevant to refer to the judgment of the Hon'ble

Supreme court in the case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors.**, reported in **2025 SCC Online SC 17**, in which the Hon'ble Supreme Court, in paras 9 and 11 of the judgment, has held as under :

*"9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.*

*11. In the contextual situation, it is also relevant to refer to the decision of this Court in **Mohammad Wajid and Another v. State of U.P. and Anr.**, whereunder this Court, in so far as it is relevant, held thus :-*

"34..... it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as materials collected in the course of investigation....."

7. We have perused the report and the charge sheet. Though

Section 327 of I.P.C. is invoked against the applicants, its essential ingredients i.e. voluntarily causing hurt to extort property, or to constrain to an illegal act, which says that whoever voluntarily causes hurt, for the purpose of extorting any property or valuable security, or to do anything, which is illegal or which may facilitate the commission of an offence. The said essential ingredients are not establishing from the charge sheet.

8. The hurt has been defined under Section 319 of the I.P.C. which states that causing bodily pain, disease or infirmity to any person is said to cause hurt. The report and the statements of the witnesses do not disclose that applicants caused hurt to the informant to attract Section 323 of the I.P.C.

9. There is no such material to attract Section 504 of the I.P.C. that the applicants caused alarm to the informant and his father that the applicants intentionally insulted to provoke and break public peace. Further, there is no such material to establish criminal intimidation as defined under Section 503 of the I.P.C. which says that whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally

bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. In our opinion, the ingredients as mentioned in Section 503 of the I.P.C. are absent in the report.

10. As discussed above, the allegations made in the report are not sufficient to establish the essential ingredients of Sections 327, 323, 504, 506 and 34 of the I.P.C. Therefore, on such material, compelling the applicants to face the trial, would be an abuse of process of the court. The case is made out for exercise of our extraordinary powers under Section 482 of the Cr.P.C. for quashing the report. We are therefore, inclined to allow the application, in the interest of justice to prevent the abuse of process of the Court. Hence, the following order:-

O R D E R

- I. The application stands allowed.
- II. The charge sheet No. 39 of 2023 dated 10.2.2023 arising out of F.I.R. No. 1012 of 2022 dated 12.12.2022 registered with Sadar Bazar police Station, Jalna, District Jalna, for the offences punishable under Sections 327, 323, 504, 506 and 34 of I.P.C. stand quashed and set aside as against the present applicants.

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