



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2232 OF 2020

- 1) Mukunda Navnit Rajput,
Age-33 years, Occu:Service,
R/o-Shaninagar, House No.7,
Near Marimata Mandir, Sakri
Road, Dhule, District-Dhule,
- 2) Tushar Jaysing Rajput,
Age-34 years, Occu:Labour,
R/o-Shaninagar, Near Marimata
Mandir, Sakri Road, Dhule,
District-Dhule,
- 3) Ramesh Bhandari,
Age-33 years, Occu:Labour,
R/o-Shaninagar, Sakri Road,
Dhule, Dist-Dhule,
- 4) Pashabhai Ishmail Shaikh,
Age-39 years, Occu:Business,
R/o-Shaninagar, Sakri Road,
Dhule, Dist-Dhule,

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Dhule City Police Station, Dhule,
Taluka and District-Dhule,
- 2) Bandu @ Prakash Ashok Suryawanshi,
Age-40 years, Occu:Labour,
R/o-Shani Nagar, Sakri Road,
Dhule, District-Dhule.

...RESPONDENTS

...
Mr. N.L. Choudhari Advocate for Applicants.
Mr. A.M. Phule, A.P.P. for Respondent No.1.
Mr. Chaitanya C. Deshpande Advocate for Respondent No.2.
...

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

DATE : 17th FEBRUARY, 2025

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

1. Present Application has been filed for quashing the Charge-sheet No.133 of 2019 i.e. the proceedings in Sessions Case No.23 of 2020 pending before the learned Sessions Judge, Dhule for the offence punishable under Sections 307, 323, 504, 506 of the Indian Penal Code and Section 4 punishable under Section 25 of the Indian Arms Act, arising out of the Crime No.30 of 2019 registered with Dhule City Police Station, Dhule dated 29th January 2019.

2. Heard learned Advocate Mr. Choudhari for the applicants, learned APP Mr. Phule for respondent No.1 and learned Advocate Mr. Deshpande for respondent No.2. In order to cut short it can be stated that the learned Advocates appearing for the respective parties have argued in support of their contentions.

3. Perusal of the First Information Report (for short "the FIR") would show that present respondent No.2 had lodged a report on 29th January 2019 around 19.55 hours in respect of the incident that had taken place around 12.00 noon on the same day. Informant states that when he was going on motorcycle from Seva Hospital to Santoshi Mata temple, he was stopped by applicant No.1. There was previous quarrel between them on account of election. Accused Mukund i.e. applicant No.1 took out knife and started assaulting the informant. Accused Tushar had given the blows by means of sword on the back side of head of the informant. Thereafter the blows were given to the informant on his neck, chin, face, head with the help of knife and sword. Other four to five persons with these two persons also assaulted and abused the informant. The informant says that he received severe injury, therefore, people made arrangement for shifting him to Hire Hospital, where he was under treatment when the FIR was lodged.

4. Perusal of the FIR would show that the informant had not given name of any witness who was present. Statement of the wife, son of informant would show that they were not present at the spot but went there after they have received phone call from

the informant. Same is the case with witness Nalini Dattu Nikam, who is the mother-in-law of the informant. There is a statement of one Sattar Kasim Sayyad, who says that when he was passing on the road nearby, he saw the people had gathered and therefore, he went near the people and found that informant was in injured condition. He says that he helped the person who were making arrangement of shifting the informant to the hospital. Then he asked the informant as to what has happened and then the informant narrated the same story. Thus, it can be seen that there are no eye witnesses to the incident.

5. Then, all of a sudden the supplementary statement of the informant has been recorded on 24th February 2019 and at that time the informant informs that he was assaulted by the other two accused persons also i.e. applicant Nos.3 and 4 and on the day of incident one Rajendra Uttam Patil was his pillion rider. On the same day, statement of Rajendra Patil under Section 161 of the Code of Criminal Procedure was recorded and then on 28th February 2019, his statement under Section 164 of the Code of Criminal Procedure has also been recorded.

6. There is absolutely no reason assigned by the informant in his supplementary statement recorded on 24th February 2019, as to why he had not disclosed the name of eye witness at the time of filing of the charge-sheet when specific role has been attributed to the accused persons. However, both of these persons i.e. the informant and so-called eye witness had reiterated about the use of weapon like sword and knife, which are by itself sharp edged weapons one side. But if we see the medical certificate, then there were only four contused lacerated wounds, one was on occipital region, another was over left side of forehead, third was over face and fourth one was on chin. The nature of injury has been stated to be simple with hard and blunt object. Thus, the medical evidence does not support the FIR and the statement of the so-called eye witness. Further, the weapons have been shown to have been seized in the matter and those were sent for medical opinion. Though it is stated that the weapon sword is a dangerous and sharp edged weapon, but in clear terms the medical officer says that all the injuries which were on the person of the informant, are not possible by a knife and a sword. The statement of the alleged so-called sole eye witness is also belated. Therefore, with this evidence, the applicants cannot be asked to face the trial. The case is made

out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The Charge-sheet No.133 of 2019 i.e. the proceedings in Sessions Case No.23 of 2020 pending before the learned Sessions Judge, Dhule for the offence punishable under Sections 307, 323, 504, 506 of the Indian Penal Code and Section 4 punishable under Section 25 of the Indian Arms Act, arising out of the Crime No.30 of 2019 registered with Dhule City Police Station, Dhule dated 29th January 2019, stands quashed and set aside as against applicant Nos. 1 to 4 i.e. - 1) Mukunda Navnit Rajput, 2) Tushar Jaysing Rajput, 3) Ramesh Bhandari and 4) Pashabhai Ishmail Shaikh.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/FEB25