



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2922 OF 2023

VASANT SAKHARAM MORE AND OTHERS
VERSUS
MADHUKAR SAKHARAM MORE

...
Advocate for Applicants : Mr. Y. P. Jadhav
Advocate for Respondent : Mr. R. D. Kawade
...

CORAM : SACHIN S. DESHMUKH, J.
Date : 3rd November, 2025

ORDER :-

1. The applicants have presented this application for quashing of criminal complaint for offences under Section 379, 504 and 506 read with 34 of the Indian Penal Code presented by the respondent dated 29.10.2021 rendered by the learned Judicial Magistrate First Class, Lohra Dist. Osmanabad.

2. Heard learned counsel for litigating sides. Perused the record made available.

3. It is a matter of record that the parties to the proceedings are prosecuting the Regular Civil Suit No. 192 of 2021 wherein the possession and injunction have been sought. Initially, the learned Jt. Civil Judge Junior Division, Osmanabad passed an

order dated 05.10.2021 granting ex-parte ad-interim injunction restraining the defendant from selling the soybean crop which was planted and standing on the suit land at the relevant point of time. Eventually, the application presented by present respondent seeking injunction came to be rejected on 18.12.2021.

4. Conscious of the above-said fact, an attempt is made to give cloak of criminality to the entire episode. A complaint is presented on 29.10.2021 bearing Criminal Misc. Application No. 87 of 2021 with an assertion that the injunction is granted in civil suit, still the present applicants have committed the alleged offence. The complaint which is manifestly motivated by the ulterior motive as has been held by the Hon'ble Apex Court in the case of ***State of Haryana v. Bhajan Lal (1992 AIR SC 604)*** in respect of categories where quashing of proceedings is justified which are reproduced as under :

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an

order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

5. Although the respondent is conscious of the fact that the order of Civil Court while granting ad-interim injunction is confined to preventing sell of harvested soybean crops and pertinently the order of injunction does not restrain the applicants

from harvesting the standing crops. Still, an assertion is made in the complaint that the present applicants have committed alleged offence of theft of standing crops by filing the complaint so as to initiate criminal proceedings against the present applicants which is manifestly attended with malafides and the proceedings are maliciously instituted.

6. In aforesaid view of the matter, apparently, the attempt of the present respondent by filing the present complaint is aimed to drag the present applicants in criminal proceedings having failed in civil proceedings. Resultantly, the present application deserves to be allowed with cost to be paid by the respondent / original complainant. Hence, following order :-

ORDER

- (A) Criminal Application is allowed.
- (B) The Criminal Complaint filed by the respondent / complainant dated 29.10.2021, before the learned Judicial Magistrate First Class, Lohara, is hereby quashed and set aside.
- (C) Respondent shall deposit the costs of Rs. 10,000/- (Rs. Ten Thousands Only) payable to applicants, within a period of two weeks.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi