



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1349 OF 2023

1. Nagmani Nagorao Amlapure
Age: 54 years, Occu.: Household,
R/o. Shastri Mohalla, Old Jalna,
Jalna.
2. Nikhil Nagorao Amlapure
Age: 25 years, Occu.: Student,
R/o. Shastri Mohalla, Old Jalna,
Tq. And Dist. Jalna.
3. Nilesh Nagorao Amlapure
Age: 29 years, Occu.: Service,
R/o. Shastri Mohalla, Old Jalna,
Tq. And Dist. Jalna.

.. Applicants

Versus

1. The State of Maharashtra
2. Police Inspector,
Kadim Jalna Police Station,
Kadim Jalna, Tq. And Dist. Jalna.
3. Radha Ganesh Gogade
Age: 38 years, Occu.: Household,
R/o. Shastri Mohalla, Old Jalna,
Tq. And Dist. Jalna.

.. Respondents

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WITH

CRIMINAL APPLICATION NO.1201 OF 2024
IN WP/1349/2023

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Mr. S. D. Patil, Advocate for the petitioners/applicants.

Mr. N. R. Dayama, APP for respondent Nos.1 and 2/State.

Mr. Audumber Shinde h/f Mr. R. V. Gore, Advocate for respondent No.3.

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

DATE : 22 JULY 2025

ORDER :

. Criminal Application No.1201 of 2024 has been filed seeking amendment in Criminal Writ Petition No.1349 of 2023.

2. For the reasons mentioned in the application, Criminal Application No.1201 of 2024 stands allowed and disposed of. Amendment to be carried out immediately.

3. Criminal Writ Petition No.1349 of 2023 has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India and the inherent powers under Section 482 of the Code of Criminal Procedure for initially quashing the FIR vide Crime No.293 of 2023 dated 26.06.2023 registered with Kadim Jalna Police Station, District Jalna and later on, by way of amendment, for quashing the proceedings in Regular Criminal Case No.719 of 2023 pending before the learned Chief Judicial Magistrate, Jalna for the offences punishable under Sections 354, 323, 504, 506 read with Section 34 of Indian Penal Code.

4. Heard learned Advocate Mr. S. D. Patil for the petitioners, who has taken us through the entire FIR and the charge-sheet as well as the

copies of the FIRs which according to the petitioners are connected. It is then stated that present petitioner No.1 lodged FIR at 22.07 hours on 26.06.2023 with the same police station for the offence punishable under Sections 354, 323, 504, 506 read with Section 34 of Indian Penal Code against the husband of respondent No.3 and his brothers and later on, with this identical facts, at about 22.41 hours on the same day, the present FIR came to be lodged. He has also taken us through the FIR vide Crime No.143 of 2023 dated 28.03.2023 registered with the same police station for the offence punishable under Sections 323, 353, 504, 506 read with Section 34 of Indian Penal Code against the husband of present respondent No.3 and his brother at the instance of Police Constable Mukesh Punamchand Patthe attached to Kadim Jalna Police Station in respect of the incident alleged to have taken place around 23.30 hours on 27.03.2023. It is then stated that the accused persons named therein had forcibly entered the house, which is stated to be belonging to present petitioner No.1 and it was then stated that there was dispute in respect of the said incident. Thereafter, one Vanmala Dattatray Sakharkar lodged one more FIR vide Crime No.144 of 2023 on 29.03.2023 for the offence punishable under Sections 452, 336, 337, 143, 149, 427, 323, 504, 506 of Indian Penal Code. Thus, there appears to be disputes between the family of both sides. Even the informant and her family is involved in many illegal activities. The FIR in question is,

therefore, lodged with *mala fide intention* and, therefore, it would be an abuse of process of law, if the petitioners are asked to face the trial.

5. Per contra, learned APP for respondent Nos.1 and 2 as well as learned Advocate for respondent No.3 strongly opposed the application and submitted that since there are cross complaints, the presence would be then admitted. There are statements of the witnesses as against each other and, therefore, this is not a fit case where the Court should exercise its powers in favour of the petitioners.

6. Here, it is to be noted that the impugned FIR came to be lodged on 22.41 hours on 26.06.2023 in respect of the alleged incident that had taken place on the same day around 4.00 p.m., whereas the FIR lodged by present petitioner No.1 was registered around 22.07 hours on the same day in respect of the incident that had taken place at 3.30 p.m. The spot appears to be the same as the informant and accused persons named in both the FIRs are residing adjacent to each other. Merely because the FIR lodged by petitioner No.1 is slightly prior in time will not give any kind of advantage. The presence or the incident that is alleged would be there. Of course, the presence of almost all of them is one way or the other has been shown. There are statements of witnesses recorded under Section 161 of the Code of Criminal Procedure and they cannot be brushed aside on the ground that they are interested

witnesses, at this stage.

7. As regards the other two offences are concerned, it can be seen that they are in respect of a different incident that is alleged to have taken place in the intervening night of 27.03.2023 and 28.03.2023. It is stated that the incident in FIR vide Crime No.144 of 2023 had taken place around 22.30 hours of 27.03.2023, whereas in respect of Crime No.143 of 2023 it had taken place on 23.30 hours on 27.03.2023. That means, it had not occurred as per the FIRs on 26.06.2023. There might be disputes between the families, but those two FIRs cannot be considered for quashing the FIR and the proceedings in the present matter.

8. Since there are cross complaints, this Court would be slow in exercising its constitutional powers under the Constitution of India or inherent powers under Section 482 of the Code of Criminal Procedure and, therefore, the writ petition stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm