IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3491 OF 2023

Rushikesh Bhagwat @ Bhaguram Dhage ***.. Applicant***

Versus

1. The State of Maharashtra
Through Officer Incharge
Police Station Udgir (Rural),
District Latur.

2. Balaji Uddhav Dhage ***.. Respondents***

...

Ms. Pooja S. Ingle h/f Mr. S. J. Salunke, Advocate for the applicant.
Mr. G. A. Kulkarni, APP for respondent No.1/State.
Mr. A. V. Patil Intrale, Advocate for Respondent No.2.

...

CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.
DATE : 03 JANUARY 2025

ORDER :

. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the charge-sheet i.e. the proceedings in R.C.C. No.277 of 2021 pending on the file of learned Judicial Magistrate First Class, Udgir, District Latur arising out of FIR vide Crime No.325 of 2021 dated 05.08.2021 registered with Udgir Rural Police Station, District Latur for the offences punishable under Sections 324, 323, 504, 506 read with

Section 34 of Indian Penal Code.

2. Heard learned Advocate Ms. Pooja S. Ingle holding for learned Advocate Mr. S. J. Salunke for the applicant, learned APP Mr. G. A. Kulkarni for respondent No.1/State and learned Advocate Mr. A. V. Patil Indrale for respondent No.2. In order to cut short, it can be said that all of them have made submissions in support of their respective contentions.

3. Learned Advocates for the applicant as well as the respondents are unanimous in saying that charge has been framed before the learned Trial Judge.

4. The present applicant has been arrayed as accused No.3. Perusal of the FIR lodged by respondent No.2 and the statements of witnesses would show that all the four accused went around 5.30 p.m. on 04.08.2021 in the field of the informant. They started asking as to why the informant had stood as a surety for one Govindrao Jagtap and Nitin Fawde. It was also asked as to why the dead body was taken in possession and funeral has been conducted. Of course the name of the dead person has not been clearly given in the FIR, but then the informant says that he as well as his father were assaulted by kicks and fists. Informant's

mother came to support them, at that time, accused Pankaj assaulted her with iron rod on her head. The accused is stated to have given threats to kill. The statement of Nirmalbai/the injured and Uddhav/the father of the informant are on the same line. The prosecution papers show that the informant and his mother were referred to medical examination. They both have sustained simple injuries. The informant's mother has received CLW over frontal aspect of head, 0.8 x 0.2 x 0.2 cms in size and it is stated to be caused with hard and blunt object, whereas the informant had contusion over the back right paraspinal area. The material in the investigation therefore *prima facie* shows the presence of the applicant along with co-accused.

5. It has been tried to be submitted that the witnesses are interested witnesses and there is no statement of any independent witness. The first and the foremost fact in this respect to be noted is that the incident alleged to have taken place in the field of the informant. Therefore, presence of some other person unless the place was within the public view would not have been possible. Further, it would have been premature to grant any witness as interested witness.

6. Merely because the applicant appears to have received the appointment letter from M.S.E.D.C.L., the FIR and the proceedings cannot be quashed and set aside. Now, since the charge is framed, there is no necessity to exercise the power under Section 482 of the Code of Criminal Procedure.

7. Criminal Application stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm