



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4175 OF 2024

- 1] **Kashibai Kallappa Birajdar (Chincholikar)**
Age : 65 years, Occu. Household,
- 2] **Arati Dattatraya Birajdar (Chincholikar)**
Age : 32 years, Occu. Household,
- 3] **Suresh Kallappa Birajdar (Chincholikar)**
Age : 42 years, Occu. Agri.,
- 4] **Das Raghunath Kharwale**
Age : 77 years, Occu. Nil,
All R/o. Londhe Nagar,
Nilanga, Tq. Nilanga, Dist. Latur.
- 5] **Subhadara Rajkumar Chille**
Age : 46 years, Occu. Household,
R/o. Lamjana, Tq. Ausa,
Dist. Latur.
- 6] **Mahananda Shivraj Patil**
Age : 48 years, Occu. Household,
R/o. Hulgutti, Narayanpur, Tq. Basavkalyan,
Dist. Bidar (Karnataka).

...Applicants

VERSUS

- 1] **The State of Maharashtra**
- 2] **Nagratna d/o. Gadigeppa Balagi**
Age : 43 years, Occu. Spiritual Teacher,
R/o. Adhyatmik Vidyalaya,
Londhe Nagar, Nilanga, Tq. Nilanga

...Respondents

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- Mr. Satej S. Jadhav, Advocate for Applicants
- Mr. S. A. Gaikwad, APP for Respondent No. 1

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CORAM : SMT. VIBHA KANKANWADI
AND
HITEN S. VENEGAVKAR, JJ.

DATED : SEPTEMBER 22, 2025

JUDGMENT : [PER HITEN S. VENEGAVKAR, J.]

1. Rule. Rule made returnable fourth with. With the consent of the parties, the application is taken up for final hearing and disposal at the stage of admission itself.

2. The present application preferred under section 482 of Cr.P.C. seeking quashing of FIR No. 0079 of 2024 registered with *Nilanga* Police Station, District Latur for the offenses punishable under Sections 452, 354, 143, 149, 427, 323, 504, 294, 506 of IPC read with section 37(1) and 37 (3) of Maharashtra Police Act.

3. The prosecution case is based on an FIR lodged on 04.03.2024 by respondent No. 2 – *Nagratna Gadigeppa Balagi*, alleging that on 03.03.2024 at about 03:00 pm all the applicants along with some unidentified persons entered her house and abused her in filthy language and also assaulted her and threatened her to immediately vacate the premises. Specific allegations of outraging the modesty were made against applicant No. 3 – *Suresh Kallappa Birajdar*.

4. The informant's - complaint narrates an incident that accused persons not only trespassed unlawfully into her residence but also engaged in acts that amounted to physical assault, intimidation and moral outrage.

5. It is specifically alleged that applicant No. 3 - *Suresh Kallappa Birajdar*, a 42-year-old agriculturist, outraged her modesty by pulling the end of her saree, holding her hand and physically scuffling with her. The remaining applicants, largely female relatives of *Suresh*, allegedly joined in assaulting and abusing the informant using filthy language and threatened her to life if she refused to vacate the property. The complaint further states that during the scuffle, the informant's mobile was damaged and another phone went missing, allegedly stolen or misplaced in the altercation.

6. Thus, the essence of the prosecution version is that the accused family, harbouring animosity due to a pre-existing civil property dispute, took the law in their own hands by storming into the informant's premises, humiliating and assaulting her and threatening to drive her out of her home. The alleged acts according to the prosecution constitute serious breaches of personal security, modesty and peace meriting custodial prosecution and judicial proceedings.

7. The Investigating Officer during the investigation, after registration of an FIR, had prepared a spot *panchnama*, wherein the signs of disturbance in the informant's residence consistent with forcible entry and scuffle is mentioned. The spot *panchnama* also notes displaced furniture, a broken mobile phone handset and household items scattered across the floor. The Investigating Officer had also recorded the statements under Section 161 of Cr.PC. During the investigation of the informant, her immediate neighbours and two persons who reportedly witnessed part of the commotion. The neighbours confirmed that there was a loud quarrel and screaming from the informant's house on the afternoon of 03.03.2024.

8. However, the degree of their observation varied. Some confirmed seeing a few of the accused entering or exiting the premises while others only heard shouting. The complainant's detailed statement reiterated that the applicant No. 3 - *Suresh Kallappa Birajdar*, was the main aggressor and the other accused persons, primarily women, only assisted and verbally abused the informant. The Investigating Officer also collected medical records from the local Government Hospital confirming minor bruises and abrasions on the complainant's arms and forearms, consistent with a physical tussle. These injuries, while not severe, were used to support the offence of section 323 IPC, charged for voluntarily causing hurt.

9. The applicants were served with the notice under section 41A of Cr.P.C. and interrogated during the investigation. The present application, though filed on behalf of all the six accused persons, on 16.10.2024, the applicant No. 1 to 4 sought permission to withdraw the application after the Courts have shown disinclination to grant any relief to them. Accordingly, the advocates for the applicants have withdrawn the application and pressed the present application only on behalf of applicant Nos. 5 and 6.

10. The matter thus now survives only for consideration with respect to applicant No. 5 – *Subhadara Rajkumar Chille* and applicant No. 6 – *Mahananda Shivraj Patil*.

11. The Learned Counsel, appearing on behalf of both the applicants, argued that the allegations against applicants No. 5 and 6 are vague, omnibus and without specific attribution of any overact. Both are women, one residing in *Nilanga* and the other in *Bidar (Karnataka)* and there is no material in the investigation record to suggest their presence at the scene or participation in the alleged assault.

12. It is further argued that the FIR discloses a civil dispute between the informant and certain members of the applicant's family

regarding possession of the house property. The present FIR was filed as a counterblast to the civil proceedings and continuation of criminal prosecution against these applicants would amount to misuse of criminal process. The advocate for the applicant relies upon the decision of the Hon'ble Supreme Court in the ***State of Haryana Vs. Bhajanlal; AIR 1992 SC 604***, to submit that where allegations are bald and omnibus and do not disclose any ingredients of the alleged offences, the proceedings are liable to be quashed under Section 482 of Cr. P. C.

13. The learned Assistant Public Prosecutor appearing for the State opposes the application submitting that the investigation has been completed and a charge sheet is already filed. It is contended that FIR and the statements under section 161 Cr.P.C. discloses a *prima facie* case and that the disputed questions of fact should be tested during trial. The learned counsel appearing for respondent No. 2, the informant, reiterates the contents of the FIR stating that all accused persons had come together to the spot and acted in concert thereby attracting the provisions of Sections 143 and 149 of IPC.

14. We have perused the FIR, the relevant statements recorded under Section 161 Cr.P.C. and the documents produced along with the investigation papers. The specific act of outraging modesty is

alleged only against applicant No. 3 - *Suresh*. As regards applicant Nos. 5 and 6, the FIR merely states that they along with other family members accompanied the principal accused and abused the complainant. However, there is no allegation that these applicants assaulted, threatened or used criminal force upon the complainant. The spot *panchanama*, medical report and seizure *panchanamas* also do not attribute any incriminating role to these two applicants. Significantly, applicant No. 6 resides at *Bidar (Karnataka)*, which is about 80 kilometers away from *Nilanga* and no material is brought on record to indicate her presence at the scene on the relevant date. The statements of witnesses are general in nature and do not clarify the role or participation of these two applicants.

15. In such circumstances applying the well-settled principles laid down by the Supreme Court in *State of Haryana versus Bhajan Lal (supra)*, we find that the allegations against applicant No. 5 and 6 are manifestly attended with *mala fide* intentions and that continuation of a criminal proceeding against them would constitute an abuse of the process of law. It is also well settled that where allegations are purely omnibus, made only to implicate all family members and the record does not *prima facie* disclose their active participation, the High Court can exercise its inherent jurisdiction to quash such proceedings to prevent miscarriage of justice.

16. In the present case therefore, there is no material to show that these applicants shared any common object or were part of any unlawful assembly at the relevant time. Their implication appears to be a result of over-implication in a family dispute.

17. Considering the above discussions, we are satisfied that the continuation of criminal proceedings against applicant Nos. 5 and 6 would be unjust oppressive and contrary to the interest of justice. Hence this Court is inclined to exercise its powers under Section 482 of Cr.PC. to secure the ends of justice. Hence following order.

ORDER

A) Criminal Application No. 4175 of 2024 to the extent of applicant Nos. 5 and 6 *Subhadara Rajkumar Chille* and *Mahananda Shivraj Patil* is allowed.

B) The proceedings in Crime No. 0079 of 2024, registered at Nilanga Police Station, District Latur for the offences punishable under Sections 452, 354, 143, 149, 427, 323, 504, 294, 506 of the Indian Penal Code read with Sections 37(1) and 37 3) of the Maharashtra Police Act, 1951 stands quashed and set aside as against applicant Nos. 5 and 6 only.

- C) The rule is made absolute in above terms.
- D) The proceedings shall however, continue against the remaining accused persons in accordance with law.
- E) No orders as to cost.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)