



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.884 OF 2020

Shivaji s/o Kashinath Tatthapure,
Age: 53 years, Occu.: Service,
R/o. Rokada, Savargaon, Tq. Ahmedpur,
District Latur.

.. Applicants

Versus

1. The State of Maharashtra
Through the Investigation Officer,
Police Station, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
2. Noor Jaha w/o Hussainsab Shaikh,
Age: 35 years, Occu.: Labourer,
R/o. Rokada Savargaon, Tq. Ahmedpur,
District Latur.

.. Respondents

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WITH

CRIMINAL APPLICATION NO.3802 OF 2023

1. Husain s/o Baksuddin Shaikh
Age: 45 years, Occu.: Labour,
R/o. Rokda Savargaon, Tq. Ahmedpur,
District Latur.
2. Fayyum Khayyum Khureshi,
Age: 33 years, Occu.: Labour,
R/o. Maheboob Nagar, Tq. Ahmedpur,
District Latur.

.. Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Ahmedpur Police Station,
Tq. Ahmedpur, District Latur.
2. Shivaji s/o Kashin Tattapure,
Age: 57 years, Occu.: Service,
R/o. Lecturer Colony, Tq. Ahmedpur,
District Latur.

.. Respondents

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Mr. D. B. Mane, Advocate h/f Mr. N. G. Talekar, Advocate for applicant in Criminal Application No.884 of 2020 and for respondent No.2 in Criminal Application No.3802 of 2023.

Mr. S. B. Madde, Advocate for applicants in Criminal Application No.3802 of 2023 and for respondent No.2 in Criminal Application No.884 of 2020.

Mr. V. K. Kotecha, APP for respondent No.1/State in both the matters.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 06 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Both these cases are interconnected with each other and, therefore, taken up together for disposal.

2. The applicant in Criminal Application No.884 of 2020 seeks quashment of the charge-sheet bearing No.12 of 2019 submitted on 09.03.2019 before the learned Judicial Magistrate First Class, Ahmedpur, District Latur arising out of FIR vide Crime No.465 of 2018 registered with Ahmedpur Police Station, Tq. Ahmedpur, District Latur for the offences punishable under Sections 452, 294, 323, 504, 506 of Indian Penal Code lodged at the behest of present respondent No.2 therein, whereas the applicants in Criminal Application No.3802 of 2023 seeks quashment of the proceedings in R.C.C. No.28 of 2019 pending before the same

Court arising out of the FIR vide Crime No.207 of 2018 registered with the Ahmedpur police station, Tq. Ahmedpur, District Latur on 22.06.2018 for the offences punishable under Section 379 read with Section 34 of Indian Penal Code.

3. Heard learned Advocate Mr. D Mane holding for learned Advocate Mr. N. G. Talekar for the applicants in Criminal Application No.884 of 2020 and for respondent No.2 in Criminal Application No.3802 of 2023, learned APP Mr. V. K. Kotecha for respondent No.1 in both the cases and learned Advocate Mr. S. B. Madde for the applicants in Criminal Application No.3802 of 2023 and for respondent No.2 in Criminal Application No.884 of 2020.

4. Learned Advocate for the applicants in Criminal Application No.884 of 2020 and respondent No.2 in Criminal Application No.3802 of 2023 vehemently submits that the FIR bearing No.465 of 2018 lodged against the applicant is false and fabricated and has been lodged belatedly, when already the FIR bearing Crime No.207 of 2018 was lodged on 22.06.2018 itself. Perusal of the FIR bearing Crime No.465 of 2018 would show that the incident is stated to have occurred on 29.01.2018 and the FIR has been

lodged on 11.12.2018. It is alleged that the applicant had forcibly entered the house of the informant and started asking as to why the husband of the informant had committed theft of she-buffalo belonging to applicant. In fact that suspicion was in the mind of applicant, but in that process he had manhandled the informant and her grandmother. The delay in lodging the FIR has not been explained. It would be then unjust to ask the applicant to face the trial.

5. Learned Advocate for respondent No.2/informant in Criminal Application No.3802 of 2023 submits that informant/Shivaji Kashinath Tatthapure, who is a teacher has agricultural land in village Rokda Savargaon. He has employed one Laxman Jadhav as a yearly servant. It was found in the morning of 19.01.2018 that the she-buffalo tied by Laxman has been taken away by somebody. When inquiry was made it was told that the she-buffalo has been taken by Husain, Prakash and Khayum. Therefore, inquiry was made by him and a false case has been lodged against him.

6. As aforesaid, investigation in both the matters is over and charge-sheets have been filed way back in the year 2018. It can

be seen from both the FIR's that they have been lodged belatedly. As regards the FIR vide Crime No.465 of 2018, the incident is alleged to be dated 29.01.2018 and it was registered on 11.12.2018, whereas in respect of Crime No.207 of 2018, the date of incident is 11.01.2018 and the FIR was lodged on 22.06.2018. Therefore, the point of delay cannot be canvassed on behalf of both of them. There are statements of witnesses supporting both the FIR's and, therefore, when there are disputed questions of fact, case is not made out to quash the FIR and the proceedings in respect of both the matters. Both the applications are therefore rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm