



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

4 CRIMINAL APPLICATION NO. 4741 OF 2024

1. Sakarya S/o Revla Vasave
Age: 37 years, Occu: Agri,
2. Dilip @ Dilya Ranchod Parmar
Age:32 years, Occu: Agri,
3. Dilvarsing Pisa Vasave
Age: 45 Years, Occu: Agri,
4. Jaysing Revla Vasave
Age: 30 Years, Occu: Agri,
All R/o: Veri, Bhangrapani,
Tq. Akkalkuwa, Dist: Nandurbar.

... Applicants

Versus

1. The State of Maharashtra
Through Police Station
Molgi, Dist: Nandurbar.
2. Amila W/o Vikram Vasave
Age-31 years, Occu:-Agri.
R/o Veri, Tq. Akkalkuwa,
Dist. Nandurbar.

... Respondents

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Mr. Bharat Sahebrao Doifode, Advocate for Applicants.

Mr. A. R. Kale, APP for Respondent No.1 / State.

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

DATE : 04th February, 2025.

Per Court:

. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, for quashing the proceedings in R.C.C. No.58 of 2024, pending before the learned Judicial Magistrate First Class, Akkalkuwa, District Nandurbar, arising out of FIR vide C.R. No.200 of 2023, dated 2nd December, 2023, registered with Molgi Police Station, District Nandurbar, for the offence punishable under Sections 380, 452, 323, 324 and 427 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for the applicants and the learned APP for respondent No.1 / State. There is no necessity to issue notice to respondent No.2.

3 The learned counsel for the applicants has taken us through the contents of the FIR and the entire charge-sheet as well as the other documents on record. He submits that prior to the incident alleged in FIR vide C.R. No.200 of 2023, an FIR C.R. No.106 of 2023 was lodged on 13th June, 2023 with the same police station for the offence punishable under Sections 323, 324, 504 and 506 read with 34 of the IPC in respect of incident that had taken place on 12th June, 2023 around 04:00 pm. One of the accused arrayed in the said FIR, was the husband of present respondent No.2. Now, in the present

FIR, respondent No.2 has given the alleged incident around 06:00 pm on 12th June, 2023 and the second incident is stated to have occurred at 04:00 pm on 20th June, 2023. Yet, the FIR has been registered on 2nd December, 2023. The said delay has not been explained at all. As regards the first incident is concerned, it is stated that all the accused persons had entered the house of the informant and assaulted the informant's husband, caused damage to the household articles of the informant. There was also assault to the mother-in-law of the informant. Then she says that around 04:00 pm on 20th June, 2023, the accused persons had once again entered the house of the informant holding sickle and wooden logs. At that time, the husband of the informant was not in the house and therefore, the informant says that she as well as her mother-in-law fled away from the spot due to the fear and when they returned after some time, they found that there was damage to the household articles and there was theft of pair of bulls of white colour, bundle of wire, 5 HP motor and cable wire and grains. It is then stated that they came to know that the bulls were sold by applicant No.1 – Sakarya and applicant No.3 – Dilvarsing. The statements of witnesses are on same line and especially the family members of the informant. As regards the sale of bulls is concerned, witness Saya Vasave says that he had seen applicant Nos.1 and 3 were holding one red bull and one white bull, which is contrary to the FIR. Though there are statements of Khemji Tadv and Bhima Valvi

stating that they have purchased the bulls from applicant Nos.1 and 3, except bare words, there is nothing. Under the same circumstance, when there is no recovery and discovery at the behest of the applicants, it would be unjust to ask the applicants to face the trial.

4 At the outset, we would say that the delay in lodging the FIR cannot be the sole ground for quashing the FIR. The delay can be explained at any point of time and it would be the subject of appreciation of evidence, which cannot be gone into under Section 482 of the Cr.P.C. Here, in this case, the FIR itself contains that about three months prior to 2nd December, 2023, the informant had given a complaint application with the office of the Superintendent of Police, Nandurbar and thereafter, they had gone for labour work. They were called by the police station on 2nd December, 2023 in connection with inquiry of the said complaint application and therefore, she is lodging the report. Thus, it is to be noted that there is a document, which would show that the complaint application was given by the informant to the Superintendent of Police about three months prior to the date of the FIR. Now, it would be the subject matter of appreciation of evidence by the concerned Court for considering as to whether the delay has been explained or not. Therefore, the said point raised by the learned counsel for the applicants cannot be appreciated as per his submissions.

5 The FIR states about two incidences; one around 06:00 pm on 12th June, 2023 and another around 04:00 pm on 20th June, 2023. As regards the incident dated 12th June, 2023 is concerned, in the FIR itself, it is stated that the villagers had persuaded the informant and the family and therefore, according to her, it was compromised. But then she says that again other incident took place on 20th June, 2023. Bare perusal of the FIR would certainly attract the ingredients of the offence, under which the FIR has been lodged and the charge-sheet has been filed. As regards the statements of the witnesses, who had purchased the bulls is concerned, they have not given the colour of the bull that was purchased by them. The seizure *Panchanama* dated 14th December, 2023 would show that from witness Bajya Valvi one bull of white colour was seized and therefore, this seizure *Panchanama* will have to be read alongwith the statement of Bajya Valvi taken under Section 161 of the Cr.P.C., who says that he had purchased the said bull from applicant Nos.1 and 3. Thus, there might not be recovery from the applicants directly, but there is *prima-facie* indirect evidence / circumstantial evidence and therefore, taking into consideration the entire material in the charge-sheet, *prima-facie*, case is made out against the applicants and therefore, this is not a fit case where we can exercise our inherent powers under Section 482 of the Code of Criminal Procedure.

6 The application stands rejected at the threshold.

nga **[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]**