



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 1135 OF 2025

1. Satish s/o Ajabrao Wankhede,
Aged about 59 yrs, Occ Business,

2. Nilima w/o Satish Wankhede,
Aged about 53 yrs, Occ. Household,

3. Gitesh s/o Satish Wankhede,
Aged about 31 yrs, Occ. Business,

4. Gomati d/o Satish Wankhede,
Aged about 35 yrs, occ. Private

all r/o Plot No. 2, Ravindra
Smruti, Doctors Colony,
Chhatrapati Nagar, Ring Road,
Nagpur 440 015

.....APPLICANTS

...VERSUS...

1. The State of Maharashtra,
Through Police Station Officer,
Ranapratap Nagar Police Station,
Nagpur.

2. Priyanka w/o Chetan Borkute,
Aged about 45 yrs, Occ. Business,
At Present r/o Plot No. 3,
Ground Floor, Besides "Solanke
Hospital Hindustan Colony,
Wardha Road, Nagpur 440 015

3. Chetan s/o Purushottam Borkute,
Aged about 50 yrs, Occ Business
At Present r/o Plot No. 3,
Ground Floor, Besides "Solanke

Hospital Hindustan Colony,
Wardha Road, Nagpur 440 015

.....**NON-APPLICANTS**

Mr. S.R. Kadam, Advocate for applicants.
Mr. H.D. Marathe, APP for non-applicant No.1/State.
Mr. S.B. Kalbande, Advocate for non-applicant Nos. 2 and 3.

CORAM:- RAJNISH R. VYAS, J.

Date : 10.10.2025

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsels for the parties.

2. Original accused has invoked inherent jurisdiction of the Court thereby praying for setting aside Regular Criminal Case No. 5086/2021, pending Before learned Judicial Magistrate First Class, Nagpur.

3. In short, it is the case of the accused persons that Criminal Complaint No. 5086/2021, was filed against them at the behest of non-applicant Nos.2 and 3. In the said complaint, it is categorically stated that they were in fact, assaulted by means of iron rod and were abused. According to non-applicant Nos. 2 and 3, entire incidence was recorded in CCTV footage and a specific statement was made in paragraph 6 of the complaint (page 26).

4. Learned Magistrate, after considering averments in the complaint, ordered enquiry to be conducted under Section 202 of the Code of Criminal Procedure ("Cr.P.C.") at the hands of concerned Police Station. In pursuance with the order dated 24.2.2023 directing enquiry under Section 202, the officer attached to Ranpratap Nagar Police Station, Nagpur filed report dated 2.10.2023 in which it was stated that the non-applicant though requested but did not produce CCTV footage during course of inquiry. Learned Magistrate, thereafter on 19.6.2025, issued process against the present applicants for commission of offence punishable under Sections 324, 323 read with Section 34 of the IPC.

5. It is the contention of both the parties that CCTV footage is the best evidence which will reveal the truth. The best piece of evidence should have been considered by the police authorities while carrying out enquiry under Section 202 of the Code. According to original complainant, police had never asked for CCTV footage and therefore, it was not produced. Be that as it may, the best material in the form of electronic evidence is available for deciding question whether to set criminal law in motion or not? The learned counsel for original complainant is ready to produce CCTV footage if asked by the police by issuing necessary summons. According to him, he has preserved CCTV footage in pen drive. Learned APP fairly states that if CCTV footage is available in pen drive that will be a material which can be produced before the

Magistrate, who in turn, can take appropriate decision.

6. In that view of the matter, following order is passed:

ORDER

- i) Order issuing process dated 16.6.2025, passed in RCC No. 5086/2021, by Judicial Magistrate First Class, Nagpur is set aside.
- ii) The original complainants are directed to produce pen drive containing CCTV footage within 15 days from today.
- iii) Learned APP shall ensure that summons is issued to produce pen drive within seven days from today. If pen drive containing CCTV footage is produced, non-applicant No.1 would test its genuineness and submit appropriate report to the Court of learned Magistrate, within two months, thereafter.
- v) Learned Magistrate can take appropriate call and decide fate of RCC No. 5086/2024, thereafter.

7. The application is allowed in the aforestated terms.

(RAJNISH R. VYAS, J.)