Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2966 OF 2023

Mohammed Arif @ Ranu & Ors. .. Petitioners

Versus

State of Maharashtra & Anr. .. Respondents

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- Mr. Ashif Husain & Ms. Naziya Shah, Advocates for Petitioners
- Ms. Anuja Gotad, APP for State
- Ms. Anupama Patil, PSI, Pairavi, Sakinaka Police Station

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 20, 2026

P. C.:

1. Heard Mr. Husain, learned Advocate for Petitioners and Ms. Gotal, learned APP for State.

2. Petitioners are arraigned as accused Nos. 1 to 3 in the present crime. They have filed the present Petition under Section 482 of the Code of Criminal Procedure, 1973 to quash and aside FIR No. 0531 of 2023 registered with Sakinaka Police Station for offences punishable under Sections 326, 324, 504, 506 and 34 of Indian Penal Code, 1860.

3. Complainant and Petitioners had a money transaction issue between them and were both present at the Police Station on the date of incident i.e. on 15.05.2023. After the dispute between the parties

was resolved at the Police Station, the complainant and his siblings left the place, but however they returned back at 11.00 p.m. and accosted the Petitioners near Lucky Hotel in the same vicinity where the Petitioners were having tea at that time. Another round of friction, abuse, arguments and assault resulted and whatsoever came into the hands of the parties including that of the Petitioners as well as complainant from the roadside namely stones, bamboo stick etc were used for assault on each other. In the said fight between the parties, admittedly persons from both the sides received injuries. Insofar as the Petitioners are concerned, they received grievous injuries which are *prima facie* seen from the annexures and documents appended to the Petition itself. However complaint was lodged by the other side for the offences punishable under Sections 326 and other allied sections for causing grievous hurt. Cross complaint was also lodged against the first informant and his group members. It is seen that when the investigation was made, it was revealed that both the sides participated in the assault *qua* each other. This Court by order dated 06.09.2023 had stayed filing of the chargesheet despite which the prosecution officer for the reasons known to the concerned investigating officer (IO) and the police authorities filed the chargesheet. Ultimately the concerned IO had to tender apology to this Court which is documented in an order of this Court in the present

Petition itself. On 25.11.2025 all further steps with regard to the chargesheet filed were also stayed.

4. Mr. Husain would submit that Petitioners - accused persons were in fact the victims of assault which is *prima facie* seen from the documents appended to the Petition itself. Insofar as injuries caused to the complainant and his siblings are concerned, same were in fact simple injuries. Learned APP confirms this fact in her usual fair mindedness. Roadside stones and bamboo sticks lying around were used by the parties from both sides to assault each other. After perusing the material which is placed on record as also the contents of the FIR as also chargesheet, I am of the opinion that insofar as the Petitioners are concerned, it is they who were attacked by the complainant and his siblings and therefore lodging of the offences against the Petitioner is *prima facie* incongruous and not correct in the facts and circumstances of the present case when he himself suffered injuries which are seen from the record of the case. If at all the offences were to be lodged, they ought to have been lodged against both the sides. It is very crucial to note as to why the incident happened. The motive for the incident is two fold. Firstly, resolution of the civil dispute in the Police Station regarding the money transaction was the precursor incident and in the second instance, case of the complainant is that Petitioners had abused the sibling sister of

the complainant. It needs to be noted that it was the complainant and his siblings who had returned back and had picked up the fight with the Petitioners and it is not the other way around. Therefore the charge on the Petitioners having abused the complainant's sister and assaulted them cannot be sustained as the reason for the quarrel especially in view of the fact that Petitioners themselves suffered serious injuries on the date of the incident. Cross FIR to that effect is appended at Exh. "E" at page No. 28. I have perused the same.

5. In view of the aforesaid observations and findings, I am of the opinion that the complaint which is filed by the prosecution leaves several questions unanswered and therefore cannot be held to be sustainable for continuation. Considering that there is no material placed on record by the prosecution either to justify that the Complainant received grievous injuries, whereas the offence is registered under Sections 324 and 326 of IPC and all other allied sections which relate to grievous injuries, the same cannot be sustained any further. In that view of the matter, arguable case is made out by Mr. Husain for allowing the present Petition. Hence, Petition is allowed and disposed in terms of prayer clause (A) which reads thus:-

> *"A. That this Hon'ble Court be pleased to issue writ of certiorari and any appropriate writ, under Article 226 of the Constitution of India, 1950 r/w Section 482 of Cr.P.C. 1973 to quash and set aside FIR No. 0531 of 2023 registered with Sakinaka Police Station for offences*

u/s. 326, 324, 504, 506, 34 of Indian Penal Code, 1860 on such terms and conditions as this Hon'ble Court deem fit and proper."

6. Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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RAVINDRA MOHAN AMBERKAR

Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2026.08.20 19:16:29 +0530