

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1188 OF 2015

- 1) Ashwini Gulabrao Patil,
Age-35 years, Occu:Service,
R/o-Plot No.27, Gajanan Colony,
Chopda, Tq-Chopda, Dist-Jalgaon,
- 2) Sau. Meghna Shashikant Patil,
Age-39 years, Occu:Household,
R/o-Near Ganpati Mandir, Malkapur,
Tq-Malkapur, Dist-Buldhana,
- 3) Shashikant Atmaram Patil,
Age-45 years, Occu:Service,
R/o-As Above.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Investigation Officer,
Ramanand Nagar Police Station,
Jalgaon, Dist-Jalgaon,
- 2) Sau. Priyanka Rahul Patil,
Age-28 years, Occu:Household,
R/o-C/o- Shri S.L. Sali,
Atharva Apartment, Sahakar Nagar,
Bhusawal, Tq-Bhusawal,
Dist-Jalgaon.

...RESPONDENTS

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Mr.Girish V. Wani Advocate for Applicants.
Mr.S.D. Kaldate, A.P.P. for Respondent No.1.
Mr.Balaji S. Shinde Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.**

DATE : 9TH JULY, 2015

ORAL ORDER :

1. Learned counsel appearing for the Applicants, on instructions, seeks permission to withdraw the Application of Applicant Nos.1 and Applicant No.2. In that view of the matter, Application of Applicant No.1 - Ashwini Gulabrao Patil and Applicant No.2 - Sau. Meghna Shashikant Patil, is dismissed as withdrawn.

2. Rule, made returnable forthwith and heard finally with consent of the parties.

3. This Application is filed under Section 482 of the Code of Criminal Procedure praying therein for quashing and setting aside the first

information report registered vide C.R. No. 169 of 2014 at Ramanand Nagar Police Station Jalgaon for an offence under Section 307, 498-A, 420, 313, 323, 504, 506 of Indian Penal Code as against the Applicant No.3.

4. As the Application of Applicant Nos.1 and 2 is dismissed as withdrawn, present Application is confined to Applicant No.3 Shashikant Atmaram Patil, only. The Applicant No.3 Shashikant Atmaram Patil is doing the job of teacher. He resides at Malkapur. Complaint is filed by Respondent No.2 against five persons including the present Applicant No.3 Shashikant.

5. We have considered the submissions of the counsel appearing for the Applicant No.3 Shashikant and learned counsel for Respondent No.2 and learned A.P.P. for State. Perused the contents of the F.I.R. and also the investigation papers made available for our perusal. Even in affidavit-in-reply filed by Respondent No.2, there are no

specific acts/ allegations attributed to Applicant No.3 - Shashikant.

6. Upon careful perusal of the allegations in the F.I.R., so far as present Applicant No.3 - Shashikant is concerned, allegations are to the following effect:

“तसेच माझे मलकापुर येथील नणंद सौ. मेघना व नंदोई शशिकांत हे देखील जेव्हा जेव्हा जळगांव येथे येत असे ते देखील मला हिनवत असे व हुंड्याच्या कारणावरून टोचून बोलत असे.”

7. There are no allegations other than aforementioned extracted portion in the first information report against Applicant No.3 - Shashikant. So far Applicant No.3- Shashikant is concerned, neither any specific act is attributed nor any material particulars are mentioned in the first information report, on which date and at what time such utterances are advanced by the Applicant Shashikant when he visited Jalgaon. Contents of FIR show that Complainant did not even

know complete name of this relative. Therefore, in our opinion, the first information report so far as Applicant No.3 - Shashikant is concerned, deserves to be quashed.

8. The Supreme Court in the case of ***State of Haryana and others V/s Ch. Bhajanlal and others, reported in A.I.R. 1992 S.C. 604*** held that, in following categories the Court would be able to quash the F.I.R. :

- 1 Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code, except under an order of Magistrate within the purview of Section 155(2) of the Code;
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but

constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act, (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provisions in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

. Therefore, applying the aforementioned categories at Serial Nos.1 and 5, even if the allegations made in the F.I.R. are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the Applicant No.3 - Shashikant.

9. In that view of the matter, proceedings based upon Crime No.169 of 2014 registered at Ramanand Nagar Police Station, Jalgaon for an offence under Section 307, 498-A, 420, 313, 323, 504, 506 of the Indian Penal Code as against Applicant No.3 Shashikant Atmaram Patil are concerned, the same will be exercise in futility and abuse of process of Court.

10. In that view of the matter, Application is allowed in terms of prayer clause (B) of the Application confined to Applicant No.3 Shashikant Atmaram Patil.

11. Rule made absolute on above terms. Application stands disposed of, accordingly.

[A.I.S.CHEEMA, J.]

asb/JUL15

[S.S. SHINDE, J.]