

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO.2398 OF 2015**

- 1) Naseem Iqbal Mamdani w/o Shaikh Ramzan
(The name is incorrectly written in the
FIR as Shaikh Naseem Begum Shaikh Ramzani),
Age-42 years, Occu:Service,
R/o-Flat No.5, Wing-A, Royal Pride Building,
Cidco, N-1, Town Centre, Aurangabad,
- 2) Nadeem Iqbal Mamdani,
Age-28 years, Occu:Business,
R/o-Plot No.1, Ekta Colony,
Rauza Bagh, Aurangabad.

...APPLICANTS**VERSUS**

- 1) The State of Maharashtra,
Through Investigation Officer,
Jinsi Police Station, Aurangabad,
- 2) Tasleem Begum w/o Mohammad Ayaz,
Age-40 years, Occu:Nil,
R/o-Kaiser Colony, Lane No.1,
Aurangabad.

...RESPONDENTS

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Mr.A.S. Bayas Advocate for Applicants.
Ms.R.P. Gour, A.P.P. for Respondent No.1.
Mr.S.S. Kazi Advocate for Respondent No.2.

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**CORAM: A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 26TH OCTOBER, 2015

ORDER :

1. This Application seeks quashment of offence registered at No. I-89 of 2015 in the Jinsi Police Station, Aurangabad for the offences punishable under Sections 363, 342, 420, 468, 471, 323, 504, 506, 34 of the Indian Penal Code and under Sections 3, 4 of the Child Labour (Prohibition and Regulation) Act, 1986. The complainant alleged that Applicants kidnapped her 17 years old son, asked him to work in a Mall and took away his remuneration. He was wrongfully confined etc. She also alleged that when she tried to help her son, the Applicants abused her. The Applicants are the complainant's real brother and sister.

2. Background facts are necessary to be stated as to why this case should be quashed. The complainant got married to one Mohammad Ayaz long back and was blessed with two children. One of

them is the victim of this case. After few years, while the children were still minor, she left her husband and she agreed that her children would be reared by her husband Mohammad Ayaz, she got married second time. It is thereafter this complaint was lodged.

3. In a case of this nature, there could be dispute between complainant and her husband, who would try to keep the children with him and deny complainant access etc. Unfortunately, the complainant is making allegations against her own siblings. The Applicants' case in the background of these facts is that Mohammad Ayaz, the ex-husband of the complainant subsequently handed over custody of the children to Applicants mother and had left. Thereafter, it is the Applicants who took care of the children. It appears that this complaint is made out of spite and some dispute between the parties. We are not convinced that this complaint was truthful. Besides, during the

investigation the victim, son of the complainant made a statement to the police that he had been living with his uncle and aunt (Applicants herein) and would not go with his mother. In view of this alleged victim has not supported the complainant's case.

4. In view of this, we are inclined to quash the impugned complaint. The Writ Petition is allowed in terms of prayer clause (A) to the Petition.

[V.K. JADHAV, J.]

asb/OCT15

[A.V. NIRGUDE, J.]