

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2596 OF 2015

DHIRAJ HANUMANT JADHAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Vijay B. Patil.
APP for Respondent/State : Mr. A. V. Deshmukh.
Advocate for Respondent No.2 : Mr. Joydeep Chatterji

CORAM : S.S. SHINDE & A.M. BADAR, JJ.
DATE : 27th AUGUST, 2015.

PER COURT:

1] Heard.

2] Learned counsel for applicants, on instructions, seeks permission to withdraw the application so far as applicant Nos. 1 to 4 are concerned, with liberty to take out appropriate remedy in the event charge sheet is filed by the investigating officer.

3] Application is dismissed as withdrawn with liberty as prayed for, so far as applicant Nos. 1 to 4 are concerned.

4] So far as applicant No.5 Yogita Rajendra Chavan and applicant No.6 Monika Pankaj Shelke are concerned, those are married sisters of Dhiraj Hanumant Jadhav, residing at different places. Upon perusal of the allegations in the FIR in its entirety, there are no specific acts attributed to

them, neither any specific date or day is referred on which they came to the place of their parents and harassed the complainant. In short, the allegations against applicant Nos. 5 and 6 are concerned, are general in nature. The Supreme Court in the case of "*State of Haryana V/s Bhajanlal*" {AIR 1992 SC 604} held that, in following categories the Court would be able to quash the F.I.R. :

1. Whether the allegations made in the F.I.R. 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 F.I.R. 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 applicant;
4. Where the allegations in the F.I.R. do not constitute a 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 F.I.R. 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 of 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, in the light of the judgment of the Honourable Apex Court in the matter of “Bhajanlal Vs. State of Haryana” (supra), the application of applicant Nos. 5 and 6 deserves to be allowed.

5] In that view of the matter, application, qua applicant Nos. 5 and 6 are concerned, is allowed in terms of prayer clause (C). Application stands disposed of in above terms.

[A.M. BADAR]
JUDGE

[S.S. SHINDE]
JUDGE.

grt/-