

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.6619 of 2014

- 1) Devidas Budha Ahire,
Age 58 years,
Occupation : Pensioner.
- 2) Pankaj s/o. Devidas Ahire,
Age 30 years,
Occupation : Labour.
- 3) Arunabai w/o. Devidas Ahire,
Age Major,
Occupation : Household.
- 4) Shilpa w/o Pankaj Ahire,
Age Major,
Occupation : Household.
- 5) Yogita d/o Devidas Ahire,
Age Major,
Occupation : Household.
- 6) Sita d/o Devidas Ahire,
Age Major,
Occupation : Household.

All r/o Shivaji Nagar, Jalgaon. .. **Applicants.**

Versus

- 1) The State of Maharashtra.
- 2) Pratibha d/o Machindra Haral,
Age 21 years,
Occupation : Student,
R/o Shivajinagar,
Bhure Mamledhar Plot,
Jalgaon.

.. **Respondents.**

Shri. Vijay Sharma, Advocate, for applicants.
Shri. K.S. Patil, Additional Public Prosecutor, for
respondent No.1.
Shri. J.R. Shah, Advocate, for respondent No.2.

**CORAM: T.V. NALAWADE
INDIRA K. JAIN, JJ.**

DATE : 30^h APRIL 2015

JUDGMENT:

1) Rule, rule made returnable forthwith. Heard both the sides by consent for final disposal.

2) The present proceeding is filed for relief of quashing of the First Information Report of CR No.101/2014 registered in Jalgaon City Police Station and also the case filed in the said crime viz. R.C.C. No. 741/2014 which is presently pending in the Court of the Judicial Magistrate First Class, Jalgaon for offences punishable under sections 354, 354-A, 323, 448, 323, 504, 506, 34 of Indian Penal Code. The crime is registered on the basis of report given by Pratibha Haral, who was aged about 21 years at the relevant time. She had just appeared for entrance examination held for recruitment of police personnel. On 5-7-2014 at about 00.00 to 00.15 a.m. when she was present at the entrance gate of her house

applicant No.2, Pankaj entered the compound by opening the gate, he held her and he pushed her to make her lie on the ground. She shouted. Due to shouts, her parents, brother and sisters got up. The applicant No.2, Pankaj rushed towards bathroom to hide there and when the complainant disclosed that Pankaj was there and he was hiding in bath room the members of her family went there and they pulled him out. When they started questioning and asking him, he used force and ran away.

3) Due to this conduct of Pankaj the other applicants who are his father, mother and sisters had quarrel with the complainant and her relatives when the relatives of the complainant visited the house of Pankaj to question them. During quarrel, it is alleged that the relatives of Pankaj, the other applicants, gave threat of life and abused the relatives of the complainant. Due to misbehaviour of Pankaj and the subsequent incident Smt. Haral gave report and crime came to be registered for the aforesaid offences at CR No.101/2014. When the incident took place on 5-7-2014 i.e. on the night between 4th and 5th July 2014, FIR was given on 7-7-2014.

4) Learned counsel for the applicants submitted that on 5-7-2014 itself inquiry was made with Smt. Haral. She had informed that as the quarrel had taken place and she had informed to police that there was quarrel due to the incident of entering the compound of her house by Pankaj on 5-7-2014, Pankaj had become angry. She had informed that sister of Pankaj namely Sita had complained against Atul and Devidas and there was one more quarrel. She had informed that she had no complaint to make in respect of the incident. On the basis of this information statement of Smt. Haral was recorded by police of Jalgaon. Learned counsel for the applicants submitted that no incident had taken place and false allegations are made. The argument advanced by the other side and the record show that Pankaj also gave report to police on 7-7-2014 and on the basis of his report Crime No.100/2014 was registered in the same police station for offences punishable under sections 143, 149, 448, 323, 294, 509, 504, 506 etc. of the Indian Penal Code and some sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. This crime was registered first in time. Learned counsel submitted that only to give counter blast

to the report given by Pankaj false report was given by Smt. Haral.

5) This Court has gone through copies of the First Information Reports of both proceedings and they show that some incident did take place in which young girls were involved and due to that the quarrel had taken place. Atul is brother and Devidas is cousin of Pratibha Haral. Statements of these witnesses are recorded which are in support of the aforesaid allegations made by Smt. Haral. Thus the FIR was given late but some incident did take place. It can be said that Pankaj had misbehaved and due that there was quarrel. It appears that relatives of Pankaj got involved as the other side went to the house of Pankaj to question about the conduct of Pankaj. It can be said that there is clear possibility of exaggeration of things and there was no need to involve relatives of Pankaj in the incident. It also can be said that as Pankaj gave report against relatives of the girl and her relatives that all of them gave threats, the relatives of Pankaj also came to be involved. Allowing to continue the prosecution and the case against relatives of Pankaj will be abuse of process

of law.

6) Learned counsel for the original complainant cited one case reported as **(2013) 10 SCC 591 (Umesh Kumar vs State of AP)**. He submitted that there cannot be partial quashment of FIR. In the present case this Court is not considering partial quashment of FIR. Case is actually filed and entire case as against the relatives of Pankaj needs to be quashed.

7) In the result, the proceeding filed by applicant No.1-Devidas Budha Ahire, applicant No.3-Arunabai w/o Devidas Ahire, applicant No.4-Shilpa w/o Pankaj Ahire, applicant No.5-Yogita d/o Devidas Ahire and applicant No.6-Sita d/o Devidas Ahire is allowed. FIR and Criminal Case filed against them are quashed and set aside. Rule is made absolute in above terms. The proceeding filed by Pankaj - applicant No.2 is hereby dismissed and to that extent rule is discharged.

Sd/-
(INDIRA K. JAIN, J.)

Sd/-
(T.V. NALAWADE, J.)

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