

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.516 OF 2015

Vinayak Ashok Martal & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

.....

Ms Nidhi Dotiya for the Applicants.

Ms Archana Lad with Ms Manisha Mahavarkar and

Mr. Sanjeev Sawant for the Respondent No.2.

Ms R.V. Newton, APP for the Respondent No.1-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 17th NOVEMBER, 2015.

P. C. :

This is an application filed by the Applicants under section 482 of the Criminal Procedure Code for quashing the proceedings being Criminal Misc. Application No.540 of 2014 pending on the file of the Judicial Magistrate, First Class, Pimpri, under the provisions of section 12 of the Protection of Women from Domestic Violence Act, 2005.

2. Heard the learned counsel for the Applicants. She has submitted that the Respondent No.2 has lodged several false complaints against the Applicants. She has further stated that the Respondent No.2 and her relatives are threatening the Applicants and

they have lodged several complaints before the police authorities. The learned counsel for the Applicants has drawn my attention to the order dated 21.4.2014 passed by the Additional Sessions Judge, Greater Bombay in Anticipatory Bail Application No.1378 of 2013 wherein the learned Judge has observed that the Respondent No.2 herein wants a separate accommodation and that she is insisting the arrest of the Applicants herein as they have declined to give her separate accommodation. She has submitted that the Respondent No.2 has levelled false allegations against the Applicants only because the Applicant No.1 had refused to stay separately.

3. The legal principles in regard to quashing of first information report had been considered by the Hon'ble Apex Court in **State of Haryana & Ors. V/s. Bhajanlal & Ors. 1992 SUPP (1) SCC 335** and several other subsequent decisions. In **R. Kalyani Vs Janak C. Mehta & Ors (2009) 1 SCC 516**, the Hon'ble Apex Court after considering its previous pronouncements has held as under:-

“9. Propositions of law which emerge from the said decisions are :

(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a First Information Report unless the allegations contained therein,

even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose, the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.

10. It is furthermore well known that no hard and fast rule can be laid down. Each case has to be considered on its own merits. The Court, while exercising its inherent jurisdiction, although would not interfere with a genuine complaint keeping in view the purport and object for which the provisions of [Sections 482](#) and [483](#) of the Code of Criminal Procedure had been introduced by the Parliament but would not hesitate to exercise its jurisdiction in appropriate cases. One of the paramount duties of the Superior Courts is to see that a person who is apparently innocent is not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.”

The present case needs to be examined in the backdrop of the above mentioned principles.

4. The records prima facie reveal that the Applicant No.1 and the Respondent No.2 were married on 6.5.2011. The matrimonial dispute led to filing of several complaints and cross complaints. The Respondent No.2 also filed a case under section 12 of the Domestic Violence Act being Criminal Misc. Application No.540 of 2014 seeking alternate accommodation in the alternative rent of Rs.15,000/- p.m., compensation of Rs.30,00,000/- for physical and mental torture and maintenance for the minor daughter and return of *stridhan*.

5. In the application under section 12 of the Protection of Women from the Domestic Violence Act, the Respondent No.2 herein has made several allegations against the Applicant No.1 herein and his family members, which prima facie constitute domestic violence. It is pertinent to note that the Applicants herein do not claim that the imputations made in the said application do not constitute “violence” within the meaning of the Act. The Applicants have sought to quash the proceedings mainly on the ground that the allegations are false and fabricated and that this is evident from various complaints lodged by them against the Respondent No.2 and the observations made in the

order dated 21st April, 2014 in the anticipatory bail application No.1378 of 2013.

6. Needless to state that at this stage the Court cannot go into the veracity of the allegations made in the application. Similarly, the proceedings can be quashed on the basis of the prima facie observations made by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay, while granting the Anticipatory Bail Application No.1378 of 2013.

7. Under the circumstances and in view of the discussion supra, the application has no merits and is hereby dismissed.

(ANUJA PRABHUDESSAI, J.)