

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3038 OF 2016

1. Karimunnisabegum w/o Mobin Alam
Siddiqui, Age : 44 years
Occu. Service
2. Mobin Alam s/o Shah Alam Siddiqui,
Age : 65 years, Occu. Pensioner
3. Habib Alam s/o Shah Alam Siddiqui,
Age : 25 years, Occu. Pvt. Service
4. Sana Siddiqui w/o Mohd. Wajjoddin Kazi,
Age : 23 years, Occu. Household
5. Mohd. Wajioddin s/o Mohd. Atharoddin
Kazi, Age : 37 years, Occu. Service
6. Asara Siddiqui d/o Mobin Alam
Siddiqui, Age : 17 years Occu. Education

Applicant Nos. 1 to 3 and 6
r/o Near Power House, Asara Nagar,
Nanded
Applicant Nos. 4 and 5 r/o Chowk
Mandai, Nanded

APPLICANTS

VERSUS

1. The State of Maharashtra
2. Arshiya Begam w/o Habib
Alam Siddiqui, Age : 24 years,
Occu. Household,
R/o Karkheli, Tq. Dharmabad,
District Nanded

RESPONDENTS

Mr. Syed Masood Chand, Advocate for the applicants
Mr. M.M. Nerlikar, A.P.P. for respondent No.1/State
Mr. U.B. Bilolikar, Advocate for respondent No. 2

**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : 23rd August, 2016

PER COURT :

Heard the learned counsel appearing for the applicants, the learned A.G.P. for respondent No.1/State and the learned counsel for respondent No. 2. With their able assistance, we have perused the contents of the application and the allegations made in the F.I.R.

2. Upon careful perusal of the allegations in the F.I.R., so far as applicant No. 5 - Mohd. Wajioddin s/o Mohd. Atharoddin is concerned, there are no specific allegations against him. Even if the allegations contained in the F.I.R. are taken as they are as regards applicant No.5, no further investigation is required to be done. Apart from this, applicant No. 5 is the son-in-law of applicant Nos. 1 and 3. He is residing separate. Therefore, this application to the extent of applicant No. 5 deserves consideration.

3. The learned counsel for the applicants submits that the allegations in the F.I.R. are general in

nature. No specific overt-act is attributed to each of the applicants. Applicant No. 4 is married sister of applicant No. 3. Applicant No. 6 is his unmarried sister, who is studying in 12th standard. He submits that even if the allegations in the F.I.R. are taken at their face value and read in their entirety, no offence would be disclosed as alleged by the informant. Therefore, the F.I.R. deserves to be quashed. In support of his contention that there is a tendency to file false cases by invoking section 498A of the I.P. Code, the learned counsel for the applicants invited our attention to the judgments of the Hon'ble the Supreme Court of India in the cases of ***Preeti Gupta and another Vs. State of Jharkhand and another 2010 ALL MR (Cri) 2947*** and ***Arnesh Kumar Vs. State of Bihar and another AIR 2014 S.C. 2756.***

4. On the other hand, the learned A.G.P. appearing for the State submits that while considering the prayer for quashing the F.I.R., the Court is supposed to look into the allegations in the F.I.R. and in case the offence is disclosed, then the matter should be left for investigation.

5. The learned counsel appearing for respondent No. 2 (i.e. the informant) submits that the allegations in the F.I.R. clearly disclose the offences against the applicants and therefore, this application may not be entertained.

6. As already observed, so far as applicant No. 5 is concerned, there are no specific allegations against him in the F.I.R., which would attribute the commission of offence against him. Therefore, to the extent of applicant No. 5, the application deserves to be allowed.

7. So far as applicants Nos. 1 to 4 and 6 are concerned, the F.I.R. would reveal that there are allegations of assault to the complainant by fists and kicks and also there is demand of money from time to time by these applicants. There is also an allegation that the complainant suffered abortion because of the beating by the said applicants. Therefore, taking into consideration the seriousness of allegations in the F.I.R., we are not inclined to entertain this application as regards applicant Nos. 1 to 4 and 6.

Hence, the following order:-

(i) The application as regards applicant Nos. 1 to 4 and 6 is rejected.

(ii) So far as applicant No. 5 - Mohd. Wajioddin s/o Mohd. Atharoddin is concerned, the application is allowed. The F.I.R. registered at Crime No. 53 of 2016 with Dharmabad Police Station, District Nanded for the offences punishable under sections 498A, 323, 504, 506 read with section 34 of the I.P. Code stands quashed and set aside, to the extent of applicant No. 5. No further investigation shall proceed against applicant No. 5.

(iii) The application is partly allowed and disposed of.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

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