

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.871 OF 2016

- 1) Nivrutti s/o Tukaram Mulamwad,
Age-53 years, Occu:Govt. Service,
R/o-Sneha Nagar, Police Colony,
Nanded,
- 2) Anita @ Anusayabai Nivrutti Mulamwad,
Age-47 years, Occu:Household,
R/o-As Above

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Incharge,
Police Station Incharge,
Police Station Loha, Tq-Loha,
Dist-Nanded,
- 2) Meera w/d Sangram Mulamwad,
Age-22 years, Occu:H.H.,
R/o-Changuchiwadi,
Tq-Kandhar, Dist-Nanded.

...RESPONDENTS

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Mr.S.S. Gangakhedkar Advocate for Petitioners.
Mr.A.A. Jagatkar, A.P.P. for Respondent No.1.
Mr.P.B. Patil Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATE : 24TH NOVEMBER 2016

ORDER :

1. Heard learned counsel appearing for the Petitioners and learned A.P.P. appearing for State and learned counsel appearing for Respondent No.2.

2. The learned counsel appearing for the Petitioners submits that in the entire F.I.R. no specific date is mentioned when the Petitioners visited the place of residence of Respondent No.2 and ill-treated her. There are omnibus allegations in the F.I.R. The Petitioners are residing at Nanded and matrimonial home is situated at Rui, Tq-Ahmedpur, Dist-Latur. The learned counsel submits that husband of Respondent No.2 is serving in police department in Mumbai and therefore Respondent No.2 was residing at Mumbai at the relevant time. He further submits that even if the allegations in the F.I.R. are taken at its face value and read in its entirety, ingredients of alleged offences are not attracted and therefore

First Information Report deserves to be quashed. In support of his contentions that when there are omnibus allegations in that case F.I.R. deserves to be quashed so as to avoid abuse of process of law, he placed reliance on reported Judgment in the case of **Ashok Mahadu Patil and others vs. State of Maharashtra and another, 2015(2) Bom. C.R. (Cri.) 416** and **Swapnil and others vs. State of Madhya Pradesh, 2014(3) Bom. C.R. (Cri.) 524.**

3. On the other hand, learned A.P.P. appearing for State relying upon the statements of the witnesses recorded during the course of investigation, submits that on reading F.I.R. in its entirety and the statements of the witnesses, there are specific allegations against the Petitioners which needs further investigation and therefore allegations in the F.I.R. will have to be read as they appear and those can be tested in the light of the evidence collected by the prosecution agency during the trial.

4. The learned counsel appearing for Respondent No.2 submits that for the purpose of delivery, husband left Respondent No.2 at Rui which is matrimonial place. He further submits that even the Petitioners are resident of Rui, Tq-Ahmedpur and therefore it cannot be said that the Petitioners have no opportunity to visit the matrimonial home at Rui and commit the offences as disclosed in the First Information Report. It is submitted that there are specific allegations of demand of Rupees Five Lakh and also assault and using abusive language against Respondent No.2 and therefore F.I.R. needs further investigation.

5. Upon hearing learned counsel appearing for the Petitioners, learned A.P.P. appearing for the State and learned counsel appearing for Respondent No.2 and upon perusal of the investigation papers, though specific dates of incidents are not mentioned, nevertheless there

are specific allegations against the Petitioners in the F.I.R. The fact that the native place of the Petitioners is Rui, is not in dispute, therefore, when the F.I.R. is under investigation, the allegations in the F.I.R. will have to be taken as they appear and once the ingredients of alleged offences are disclosed, this Court while exercising jurisdiction under Section 482 of the Code of Criminal Procedure cannot quash the F.I.R. and it should be left to the Investigating Officer to investigate into the allegations of the F.I.R. In that view of the matter, we are not inclined to interfere in this Petition for quashing the F.I.R. Hence the Petition stands rejected.

. We make it clear that the observations made herein before are only for the purpose of deciding the Petition for quashing the F.I.R. The order passed today may not be construed as an impediment to the Petitioners if they wish to avail the remedy as available in law, of filing

application for discharge before the concerned Court, in the event of filing of charge-sheet by the concerned Investigating Officer.

[K.K. SONAWANE, J.]

asb/NOV16

[S.S. SHINDE, J.]