

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

CRIMINAL APPLICATION NO. 5020 OF 2016

1. Husnabano Sheikh Vahab
Age : 60 years, Occ : Housework,
2. Sheikh Vahab Sheikh Mannu
Age : 65 years, Occ : Labourer,

Both R/o Near Gangane College,
Islampura, Akot, Tq. Akot,
Dist. Akola.
3. Shamimbai Sheikh Mannan
Age : 40 years, Occ : Housework,
R/o Saraswati Nagar, Akot,
Tq. Akot, Dist. Akola.
4. Rabiyyabi Sheikh Vakil
Age : 36 years, Occ : Housework,
R/o Kamunja, Tq. & Dist. Amravati.
5. Sheikh Firoz Sheikh Vahab
Age : 49 years, Occ : Labourer,
6. Shehanazbi Sheikh Firoz
Age : 45 years, Occ : Housework,
7. Sheikh Rafik Sheikh Vahab
Age : 38 years, Occ : Labourer,
8. Asma Sheikh Rafik
Age : 34 years, Occ : Housework,
9. Nurzabi Sheikh Faruk
Age : 40 years, Occ : Housework,

All R/o Near Gangane College,
Islampura, Akot, Tq. Akot,
Dist. Akola.

..APPLICANTS

VERSUS

1. The State of Maharashtra
Through Inspector,
Bhusawal Bazarpeth Police Station,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.
2. Gulshan Shaikh Idaris
Age : 30 years, Occ : Household,
R/o K/o. Khairunissa Abdul Raheman
Shivaji Nagar, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.

..RESPONDENTS

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Advocate for applicants : Mr.B.R. Warma
APP for Respondent/State : Mr. S.G. Karlekar
Advocate for respondent no.2 : Mr. Shaikh Naseer

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

**RESERVED ON : 27th April, 2017
PRONOUNCED ON : 3rd May, 2017**

JUDGMENT (PER S.S. SHINDE, J)

Heard.

2. At the outset, the learned A.P.P. appearing for the respondent/State informs this Court that, during pendency of this application, the charge-sheet is filed.

3. We have heard the learned counsel appearing for the applicants. He submits that, even if the allegations in the first

information report are taken at its face value and read in its entirety, an alleged offences are not disclosed. He submits that, an incident quoted in the first information report is only with a view to take vengeance and far from truth. He further submits that, no incident as alleged on 30th January, 2016 has taken place and the same will be reflected from the statement of complainant dated 1st August, 2016 recorded by the Grievance Cell. The Grievance Cell has recorded the statement of complainant twice and she did not disclose the incident dated 30th January, 2016 and hence, the complainant filed the first information report on false allegations. It is submitted that, the complainant is desirous to get divorce, therefore, is filing such false complaint. It is submitted that, the complainant is residing with her mother since last two years. The applicants have no occasion and

cause to visit the place of the complainant. It is submitted that, applicant nos. 8 and 9 are married sisters. Applicant no.9 – Rabiyaabee resides in Amravati district. Both the sisters got married before 15 years. They have nothing to do with the matrimonial life of the complainant. Applicant nos.1 and 2 are the old parents/in laws. Applicant nos.3 and 4 are brothers of husband, applicant nos.5 to 7 are wives of brothers of husband. They all are innocents and have been roped in a false case. It is submitted that, the complainant is residing in thick populated area and so called incident was took place at about 10.00 a.m. and none of the witnesses are cited in the complaint. It is also submitted that, the complainant did not report to the police immediately after the incident and also no injuries are mentioned in her report. It is submitted that, she did not take medical treatment after alleged assault by the

applicants. No medical certificate is produced on record and the Police Authorities have registered the offence without making preliminary inquiry. Therefore, the learned counsel appearing for the applicants, relying upon the pleadings in the application, grounds taken therein and the annexures thereto submits that, the application deserves to be allowed.

4. On the other hand, the learned A.P.P. appearing for the respondent/State, invites our attention to the allegations in the first information report and submits that, the alleged offences have been clearly disclosed, and therefore, the Investigating Officer has investigated into the matter and filed the charge-sheet. Therefore, he submits that, it is not desirable to quash and set aside the first information report, when the charge-sheet is already filed.

5. The learned counsel appearing for respondent no.2 submits that, the material collected by the Investigating Officer during the course of investigation and also the statements of the witnesses recorded, would clearly show that, an alleged offences have been disclosed. He further submits that, the Investigating Officer has collected the sufficient material during the course of investigation and on the basis of the said material the trial can go on. Therefore, he submits that, the application may be rejected.

6. We have given careful consideration to the learned counsel appearing for the applicants, the learned A.P.P. appearing for the respondent/State and the learned counsel appearing for respondent no.2.

7. It is true that, applicant nos.8 and 9 are the sisters of husband Sheikh Idaris of

respondent no.2, however, in the first information report, a specific incident dated 30th January, 2016 is quoted and all the applicants have been implicated in the said incident. Upon perusal of the allegations in the first information report and in particular, an incident dated 30th January, 2016, it cannot be concluded that, the allegations in the first information report do not disclose an alleged offences. Even the allegation in relation to the incident dated 30th January, 2016 are against all the applicants. Even there are allegations of beating by the applicants to respondent no.2. Therefore, keeping in view the observations of the Supreme Court in the case of **Bhaskar Lal Sharma and another vs. Monica and others**¹, we are unable to accede to the prayer of the applicants for quashing the first information report. The Supreme Court

¹(2014) 3 S.C.C. 383

in the case of **Taramani Prakash V/s State of M.P. and others**² has also taken a view that, the question whether the informant/complainant has infact been harassed and treated with cruelty is a matter of trial.

8. In the light of discussion made hereinabove, the application stands rejected. An observations made hereinbefore are, prima facie, in nature and confined to the adjudication of present Application only. This order will not preclude the applicants from availing of the appropriate remedy by filing application for discharge before the concerned Court.

(K.K. SONAWANE, J.)

(S.S. SHINDE, J.)

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