

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 595/2016

(PRASHANT VISHWASRAO KADU & ANOTHER **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.R. Agrawal, counsel for the applicants.
Mrs. K.S. Joshi, A.P.P. for the non-applicant no.1.
Shri R.M. Daga, counsel for the non-applicant no.2.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : APRIL 12, 2017.

By this criminal application, the applicants seek the quashing of First Information Report No.0512 of 2016, dated 26.06.2016 registered in Police Station Frezarpura, Amravati against the applicants for the offences punishable under Sections 448, 506, 504 read with Section 34 of the Penal Code.

According to the applicants, the applicant no.1 is a teacher in a school in which the non-applicant no.2 is the principal and the applicant no.2 is a junior clerk in the said school. On a complaint made by the applicant no.1 and certain other teachers working in the school against the non-applicant no.2, a trap was arranged on 06.05.2016 and it is the case of the applicants that the non-applicant no.2 was caught red handed accepting the bribe. According to the applicants, a complaint was lodged by the applicants and some other members of the staff against the non-applicant no.2 on 23.05.2016 that he had threatened them that they would be implicated in false cases. According to the applicant no.2, the non-applicant no.2 had abused him on 21.06.2016

and a N.C. report was filed pertaining to the offences punishable under Sections 323, 503 and 504 of the penal Code. The bail granted to the non-applicant no.2 in the anti-corruption case was cancelled but, subsequently, the order of cancellation of the bail was set aside and bail was granted in favour of the non-applicant no.2 by imposing certain conditions. It is the case of the applicants that the non-applicant no.2 had lodged a false report against the applicant no.1 and applicant no.2 on 26.06.2016 that when the non-applicant no.2 was standing near the tea-stall on the road side 2-3 days earlier, the applicant no.2 while passing by, abused and threatened the non-applicant no.2 in filthy language. In the report, it is stated by the non-applicant no.2 that on 24.06.2016, when the non-applicant no.2 was sleeping in the room on the first floor, the applicant no.2 barged into the house on the first floor and threatened the non-applicant no.2. It is further complained in the report that the applicant no.1 threatened the non-applicant no.2 that people like us would overcome the scheduled caste persons like you. It is complained in the report that the applicant no.1 called the driver of the vehicle of the non-applicant no.2 and abused the non-applicant no.2 while speaking to the driver and the conversation between the driver and the applicant no.1 is recorded in the cellphone of the driver. The applicants have sought the quashing of First Information Report No.0512 of 2016.

Shri Agrawal, the learned counsel for the applicants, submitted that the offences under Sections 448, 506 and 504 read with Section 34 of the Penal Code could not have been registered against the applicants as the said

offences cannot be made out against the applicants by the allegations made against them in the first information report. It is stated that no allegations are made against the applicant no.2 in the first information report.

The learned Additional Public Prosecutor appearing for the non-applicant no.1 has referred to the affidavit-in-reply to submit that there is *prima-facie* involvement of the applicants in the commission of the offences and the charge-sheet is ready but, the same is not served on the applicants in view of the interim orders passed by this Court. It is stated that the investigating agency had conducted the spot panchnama in the residential house of the non-applicant no.2 on 26.06.2016 in the presence of the panch witnesses. It is stated that the caste certificate of the non-applicant no.2 is secured by the non-applicant no.1 and it appears that he belongs to the scheduled castes. It is stated that the investigating agency has recorded the statement of the complainant as also the witness, Dipak Kadaskar. It is stated that another witness Ankesh Athalye has also corroborated the version of Dipak. It is stated that no case for quashing of the first information report is made out.

On hearing the learned counsel for the parties and on a perusal of the first information report, it does not appear that a case is made out by the applicants for quashing of the first information report. It *prima-facie* does not appear that no allegations are made in the first information report on the basis of which the offence could be registered. The charge-sheet is prepared by the investigating agency. At a subsequent stage, the applicants are entitled to avail the appropriate remedy, if so advised and as is permissible in law.

In the circumstances of the case, the criminal application is disposed of with no order as to costs.

JUDGE

JUDGE

APTE