

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No. 654/2016

Applicants : 1. Shri Ananda S/o Digambar Koratwad
Aged about 42 years, Occ. Business

2. Smt. Mangala Wd/o Omprakash Polalwar
Aged about 36 years, Occ. Household

3. Shri Ramesh S/o Rajaram Kaulkar @
Kumbharwar, Aged about 32 years,
Occ. Agriculturist

4. Shri Suresh S/o Rajaram Kaulkar
@ Kumbharwar Aged about 30 years,
Occ. Agriculturist

5. Shri Santosh S/o Kailash Khatke
Aged about 28 years, Occ. Labourer,
R/o Dhanki, Tahsil Umarkhed, Dist. Yavatmal

Versus

Non-Applicants : 1. State of Maharashtra, Through P.S.O. Police
Station Bitargaon, Tahsil Umarkhed, Dist.
Yavatmal

2. Sau. Surekha W/o Ashok Koratwad, Aged
about 32 years, Occ. Household, R/o behind
old Bus Stand Dhanki, Tahsil Umarkhed, Dist.
Yavatmal

Shri Manoj A.Sable, Advocate for applicants
Shri J.Y. Ghurde, A.P.P for the respondent/state
None appears for non-applicant no. 2

**CORAM : P.B.Varale and
M.G.Giratkar, JJ.**

DATE : 26.7.2017.

Oral Judgment : (Per M.G.Giratkar,J)

Heard. **ADMIT.** By consent, the matter is taken up for final disposal.

2. By this application, the applicants are before this Court praying to Quash and set aside First Information Report no. 33/2016, registered at Police Station, Bitargaon, Tah. Umarkhed, Dist. Yawatmal on the report of the non-applicant no. 2.

3. It is submitted that the applicant no.2 lodged the report on 13/03/2016 against the non-applicant no.2 and others. The crime was registered against the non-applicant no.2 and others. To give a counter blast to the report of the applicant no.2, the non-applicant lodged a report on 15/03/2016. It is submitted that no such incident took place as alleged by the non-applicant no. 2. Therefore, prayed to quash and set aside the F.I.R lodged by non-applicant no. 2.

4. Shri Sable, the learned counsel for the applicants pointed out the report lodged by the applicant no.2 and non-applicant no. 2. The learned advocate has submitted that allegations in the report

lodged by the non-applicant no. 2 are not believable. It is clear from the record that the said report came to be lodged only because the applicant no.2 lodged the report against non-applicant no.2 and others. Therefore, prayed to allow the application and to quash and set aside the F.I.R lodged by the non-applicant no. 2.

5. Mr. Ghurde, the learned Additional Public Prosecutor has supported the action of respondent no. 1. It is submitted that on the basis of the report, crime was registered.

6. From the perusal of documents filed on record, it is clear that husband of applicant no. 2 was injured and was admitted to the hospital. He lodged a report on 13/03/2016. Thereafter on 15/03/2016, non-applicant no.2 lodged a report that applicant no. 1 committed rape on her in presence of non-applicant nos. 2, 3 and 4. It is pertinent to note that report is noting but a counter blast. The allegations in the report show that she was raped by applicant no. 1 in presence of other applicants. It is not believable that a person would commit rape in presence of his wife and in presence of one of the lady companions. The report was lodged by non-applicant no. 2 only because petitioner lodged a report on 13/03/2016 and therefore, F.I.R registered on the report of the non-applicant no. 2

vide Crime No. 33/2016 is liable to be quashed and set aside.

7. Hence, the criminal application is allowed in terms of prayer clause (a) and disposed of accordingly.

JUDGE

JUDGE

A.P. Ansari