

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

**CRIMINAL APPLICATION (APL) NO. 663/2016**

**Syed Sharin w/o Rafiq Ahmed**

**Versus**

**State of Maharashtra, through the Police Station Officer,**  
**Police Station Pachpaoli, Nagpur and another**

---

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

Court's or Judge's orders.

---

Shri R.S. Akbani, Advocate for Applicant.  
Shri A.M. Haque, Advocate for Non-applicant No.2.  
Shri A.R.Kulkarni A.P.P. for State.

**CORAM : PRASANNA B. VARALE AND**  
**ARUN D. UPADHYE, JJ**

**DATE : 29/11/2017**

Heard the learned counsel Shri R.S. Akbani for the applicant, Shri A.M. Haque, the learned counsel for non-applicant No.2 and Shri A.R. Kulkarni, the Assistant Public Prosecutor for State.

The applicant is before this Court for seeking quashment and setting aside of the First Information Report No.87/2016 registered against applicant by the respondent No.2 for the offence punishable under Section 498(A) read with Section 34 of the Indian Penal Code.

The learned counsel Shri R.S. Akbani appearing for the applicant submits that the applicant

is the married sister of Syed Firozuddin who is accused no.1 in F.I.R. dated 15/03/2016. The applicant started residing at Bangalore (Karnataka) with her husband in her matrimonial house. He then submitted that applicant secured the job in a college at Bangalore (Karnataka). She is working as faculty in B.S. College, at Bangalore.

The learned counsel then submitted that the report lodged at the instance of respondent No.2 even at its face value, attribute no act against the applicant except vague and general statement.

The learned counsel submitted that the report is lodged against the applicant and other persons on 16/03/2016. The applicant alongwith other accused persons approached to the learned Additional Sessions Judge, Nagpur for grant of anticipatory bail and by way of order dated 06/05/2016 the application seeking anticipatory bail was allowed. The applicants are enlarged on anticipatory bail on certain conditions.

The learned counsel submitted on instructions that none of the conditions imposed upon the applicant is flouted by the applicant. He then submitted that continuation of proceedings and the report itself is nothing but abuse an process of law. The learned counsel placed heavy reliance of the judgment of the Hon'ble Apex Court in the case of *State of Haryana and others V/s Ch. Bhajan Lal and others reported in AIR 1992 SC 604* in support of his submission.

The learned Additional Public Prosecutor and the counsel appearing for the respondent no.2 vehemently opposed the application. On the backdrop of the submissions of respective counsels, we have gone through the material placed on record. The copy placed on record of the report is a brief summary only and its incomplete. Mr. Akbani submitted that this was material received by the applicant. Subsequently, the copy of the report is placed on record, by Respondent No.2. On going through the report, we find that marriage between the respondent No.2 and the

accused No.1 Syed Firozuddin was solemnized on 12/02/2014. The complainant herself is a Government Official, serving as Drug Inspector in the office of Food and Drug, Nagpur. The perusal of the report further show that the complainant sometime in the year 2014 came to know about illicit relationship of accused No.1 and a lady. It is stated in the report that the complainant received certain messages right from the day of her marriage suggesting the illicit intimacy of accused No.1 with some girls. In the report, it is further stated that the father-in-law and mother-in-law started ill treating the complainant on the ground that for solemnization of the marriage they had to incur expenses and for that purpose loan was obtained by them. The allegation in the report is the accused persons i.e. matrimonial relations started demanding money from the complainant and her parents, so as to make good of the loan amount. Then there is also an allegations that though the complainant was keeping ill-health, the matrimonial relations refused the complainant to visit her paternal place. The report

runs in more than 4 pages. In so far as the applicant is concerned expect a vague statement that the applicant was also insisting for demand of money, there is nothing in the report specifying any such incident, date or month or even the place. The learned counsel for the applicant was justified in submitting that the report only reflects a vague and general statement against the applicant.

The learned Assistant Public Prosecutor opposed the application on the ground that the investigation is still going on and the applicant is not co-operating the investigation agency. Interestingly enough the applicant alongwith the other accused persons had approached the learned Session Judge and learned Session Judge allowed the application on certain conditions including the applicants to make themselves available for interrogation by Police Officer as and when required. In so far as this condition is concerned the Investigating Agency was at liberty to call the applicant for purposes of investigation by issuing a notice, if the presence of the applicant was

required. In the reply filed by the State there is a vague statement that the applicant is not co-operating in the investigating agency without there being any material placed before this Court to show that any notice was issued to the applicant to attend either the concern investigating officer or some other police officers and inspite of such notice issued to the applicant, the applicant failed to attend the Investigating Officer. On perusal of the reply filed by the non-applicant No.2, we find that the non-applicant no.2, after the application filed by accused persons seeking anticipatory bail was allowed, approached local engineering college seeking some informations in respect of the applicant on the ground that the applicant at the relevant time was not working at Bangalore but at Nagpur and to such an exercise the said private college replied to the complainant that as the colleges a private institutions, the information sought for by the complainant cannot be provided to her.

We find that the complainant is making

the attempt to collect the information, subsequent to an order passed infavour of the applicant by the competent Court i.e. Additional Session Judge, Nagpur dated 6/5/2016. Interestingly enough, the learned Session Judge while allowing the application dealt with submission of the investigating agency and in clear terms observed that the reply filed by the investigating agency is completely silent on the aspect of requiring the applicants custodial interrogation.

Considering all these facts, we are of the opinion that the learned counsel for the applicant made out a case. The learned counsel for justified in submitting that the report lodged against the applicant and the further proceedings initiated on the basis of report against the applicant is nothing an abuse of process of law. The application is thus allowed in terms of prayer clause-(i)

**JUDGE**

**JUDGE**