

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

**Criminal Application No. 0115 of 2018**

District : Dhule

1. Rajendra Dagdulal Bafna,  
Age : 40 years,  
Occupation : Agriculture &  
Business,  
R/o. Khalane,  
Taluka Sindkheda,  
District Dhule.
2. Kavarlal Dagdulal Bafna,  
Age : 45 years,  
Occupation : Agriculture &  
Business,  
R/o. Khalane,  
Taluka Sindkheda,  
District Dhule.
3. Sushil Kantilal Bafna,  
Age : 42 years,  
Occupation : Business,  
R/o. Velloli,  
Taluka & District Nashik.
4. Surendra Kantilal Bafna,  
Age : 53 years,  
Occupation : Business,  
R/o. Velloli,  
Taluka & District Nashik.

.. Applicants.

**versus**

1. The State of Maharashtra,  
Through Police Inspector,  
Sindkheda Police Station,  
District Dhule.

.... Contd.

2. Mrs. Pratibha Vilas Shinde,  
Age : 34 years,  
Occupation : Household & Press,  
R/o. Sabhulde,  
Taluka Sindkheda,  
District Dhule.

.. Respondents  
(No.02 -  
Original  
complainant)

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*Mr. P.S. Paranjape, Advocate, holding for  
Mr. Gajendra D. Jain, Advocate, for the applicants.*

*Mr. S.J. Salgare, Additional Public Prosecutor,  
for respondent no.01.*

*Mr. Rupesh Bora, Advocate, holding for  
Mr. N.L. Choudhari, Advocate, for respondent no.02.*

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**CORAM : T.V. NALWADE &  
SMT. VIBHA KANKANWADI, JJ.**

**DATE : 07TH SEPTEMBER 2018.**

**JUDGMENT** [Per Smt. Vibha Kankanwadi, J.] :

01. At the outset, learned Advocate appearing for the applicants seeks permission to withdraw the application to the extent of applicant nos.01 and 02 (original accused nos.01 and 02).

02. Permission granted. The application to the extent of applicant nos.01 and 02 (original accused nos.01 and 02), namely Rajendra and Kavarlal, respectively, stands disposed of as withdrawn.

03. Rule. Rule made returnable forthwith. By

consent, heard finally.

04. Present application has been filed by the original accused persons for quashment of the first information report vide Crime No. 50/2017, registered with Sindkheda Police Station, District Dhule, for offences punishable under Sections 354A, 509, 109, 501 read with Section 34 of the Indian Penal Code, lodged by respondent no.02.

05. Respondent no.02 has lodged first information report on 03.04.2017 with Sindkheda Police Station, stating that applicant no.01 had caught hold of her hand and uttered obscene words and also threw one pocket containing circular defaming her and her husband. It has been contended by the applicants, that a rent agreement was executed with one Vijay Harakchand Tatiya and others on 25.02.2016 which was for five years' period. Thereafter, on 20.12.2016, said Vijay Harakchand Tatiya and another issued legal notice to applicant no.03 and his wife for registration of the sale deed. The total consideration was shown as Rs. 30,00,000/- and it was stated that amount of Rs. 20,00,000/- has been paid. Reply was given by applicant no.03 and his wife on 28.12.2016. Special Civil Suit No. 36/2017 was filed by said Vijay Harakchand Tatiya and another on 24.01.2017 for specific performance of contract, in the court of Civil Judge (Senior Division), Nashik. A compromise took place on 11.04.2017 between Vijay

Harakchand Tatiya and applicant no.03. The proceedings were closed by the learned Civil Judge (Senior Division), Nashik, on 26.04.2017. Thereafter, on 30.01.2017, one Nandu @ Nana Budha Kathare lodged FIR vide Crime No. 113/2017 against applicant no.03 and one Sahil Sushil Bafna for offences punishable under Sections 341, 504, 506, read with Section 34 of the Indian Penal Code and Section 3(1)(ii) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 [**For short, "Atrocities Act"**]. Another offence was lodged on 25.10.2012 by the same person i.e. Nandu @ Nana Budha Kathare vide Crime No. 102/2012 with Sindkheda Police Station against applicants no.01, 02 and one Lalchabai Dagdulal Bafna for offences punishable under Sections 341, 373, 323, 504, 506, read with Section 34 of the IPC and Section 3(1)(v) & (x) of the Atrocities Act. Offence vide Crime No. 122/2015 was registered on 12.12.2015 on the basis of report lodged by one Sajanbai Manohar Jain, at Devpur Police Station, for offences punishable under Sections 420, 467, 468, 471, 447, 427, 457, 380, 323, 504, 506 and 120B of the IPC, against Nanabhau Kathre, Vilas Shinde, Pratibha Shinde and others. One more offence is stated to have been registered vide Crime No. 66/2011 on 02.06.2011 by Ramansing Raman Bhil with Sindkheda Police Station for offences punishable under Sections 324, 392, 452, 323, 504 and 506 of the Indian Penal Code, against one Vilas Shinde. It is stated that there is enmity between respondent no.02 and the applicants. All these cases

have been registered as a result of the enmity. Bare reading of the contents of the FIR do not constitute any offence and, therefore, they have prayed for quashing of the FIR.

06. Heard learned Advocate Mr. P.S. Paranjape, holding for learned Advocate Mr. G.D. Jain, for the applicants. Heard learned Additional Public Prosecutor Mr. S.J. Salgare for respondent no.01. So also, heard learned Advocate Mr. Rupesh Bora, holding for learned Advocate Mr. N.L. Choudhari, for respondent no.02. Perused the police papers.

07. It appears that respondent no.02 had stated in the FIR, that present applicants no.03 and 04 had distributed some defamatory article against her husband and, therefore, her son Aakash had given complaint with Sindkheda Police Station on 06.09.2017. Thereafter, on 03.04.2017, when she was standing in the courtyard at about 12.30 p.m., at that time, two persons came on motorcycle. Applicant no.01 was driving the said moped and he threw some packet on her person. When she tried to take that packet with her right hand, at that time, applicant no.01 caught hold of her hand and made derogatory remarks. At that time, she asked as to whether he is not ashamed of his act. In that process, her bangles broke. Thereafter, applicant no.02 told her, that she should go through the contents of the chit. Thereafter, she went through the contents of the chit which was again

defamatory and derogatory amounting to outraging of her modesty. She thereafter asked him as to on whose say they are acting in such manner. At that time, they had told that it has been at the behest of applicants no.03 and 04. When she started shouting, applicants no.01 and 02 fled away.

08. Thus, it is to be noted that from the contents of the FIR, she intended to say that the accused no.01 had caught hold of her hand and made derogatory remarks. As regards the alleged chit is concerned, there is nothing which would show that it was got printed at the behest of any of the applicants. When so many cases have been filed against each other, it is hard to believe that the applicants no.01 and 02 would have gone to the house of respondent no.02. Statements of witnesses would show that nobody has seen the incident and it is only upon say of the respondent no.02, they were giving the statement. The sons of respondent no.02 have tried to say that they have gone through the contents of the chit at that place along with the mother. However, their conduct appears to be doubtful because they have not given any kind of reaction when they went through such defamatory article (as per their own) involving their mother. Therefore, every possibility is that the FIR has been lodged to implicate the applicants no.03 and 04. The applicants no.03 and 04 cannot be asked, under such circumstance, to face the trial. This is a fit case where the powers under Section 482

of the Code of Criminal Procedure should be exercised.

09. Hence, the following order :-

(a) The application is partly allowed.

(b) The first information report vide Crime No. 50/2017, registered with Sindkheda Police Station, District Dhule, for offences punishable under Sections 354A, 509, 109, 501 read with Section 34 of the Indian Penal Code, to the extent of applicant nos.03 and 04 herein (original accused nos.03 and 04), namely Sushil and Surendra, respectively, is hereby quashed and set aside.

(c) As aforesaid, application to the extent of applicant nos.01 and 02 herein (original accused nos.01 and 02) is disposed of as withdrawn.

(d) Rule made absolute in the above terms.

( Smt. Vibha Kankanwadi )  
JUDGE

( T.V. Nalawade )  
JUDGE

.....

puranik / CRIAPPLN115.18

Bhagwan  
Govindrao  
Puranik

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signed by  
Bhagwan  
Govindrao  
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