

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

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CRIMINAL APPLICATION NO. 188 OF 2018

Ulhas Devram Sable
Age : 65 years, Occu: Nil,

R/o Plot No. 5, Suvarna Sandhya,
State Bank Colony, Ring Road,
Jalgaon Tal & Dist. Jalgaon

... Applicant

VERSUS

1. The State of Maharashtra,
(Copies to be served on Public Prosecutor,
High Court of Judicature at Bombay,
Bench at Aurangabad.).

2. Madhuri Dattatray Naik,
Age : 34 Occ: Service

R/o Vanjari Galli, Jalgaon
Jalgaon. Tal & Dist. Jalgaon

... Respondents

Mr. Girish Nagori for the applicant.

Mr. M. M. Nerlikar APP, for respondent No.1 - State.

Mr. R. H. Mewara for respondent No.2.

**CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.**

DATE: : 5th July, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. The applicant has filed this application under the provision of Section 482 of Criminal Procedure Code for the quashment of the first information report bearing FIR No.186/2017 registered against the present applicant for the offence punishable under Section 354 and 341 of Indian Penal Code.
3. The respondent No. 2 herein, lodged a complaint to the Police Station, Jalgaon, alleging that she is serving as a Credit Executive in Shriram Finance Company Limited, Jalgaon. On the day of incident i.e. on 29.12.2017 as usual, she went on work and attend the work during the period from 10:00 a.m. to 6:00 p.m. and after completing the official work, she went to take her scooter from parking space, at that time, the applicant came to her and caught her hand and asked her to sit in the vehicle, when the respondent No. 2 make hue and cry, immediately, the applicant ran away by his vehicle. On the basis of the information given by the respondent No.2, offence came to be registered as referred above.
4. We have heard the learned counsel Mr. Girish Nagori appearing for the applicant, learned APP, Mr. M. M. Nerlikar for the respondent – State and Mr. R. H. Mewara for respondent No.2.

5. Mr. Nagori, learned counsel invited our attention to the documents i.e. copy of the earlier litigations between the parties, particularly, the copy of the plaint in R.C. No. 59/2011 which shows that the wife of the present applicant namely Sangita filed Suit for Partition and Separate Possession against her parents and sister including the respondent No. 2. The copy of the Criminal Case No. 241/2013 is placed on record, from its contents, it reveals that the present applicant filed a criminal case against his in laws, in the month of January 2013 for defamation. The Regular Civil Suit No. 35/2011 is filed by the present applicant against mother-in-law for defamation and damages. The Criminal Case No. 505/2017 is filed by the present applicant against his brother-in-law for the offence punishable under Section 467, 471, 120-B of Indian Penal Code on 01.05.2013. One of the sister of the respondent No. 2 namely Sunita filed a suit for Partition and Separate Possession against the wife of the applicant which was dismissed on 17.08.2017 and the last document which is referred by Mr. Nagori is that the application given by the present applicant dated 08.08.2017 addressed to the Collector, Jalgaon asking protection from filing false complaint against him. By referring the aforesaid documents, the learned counsel for the applicant submits that there are number of Civil Suits and Criminal Cases pending between the parties. The age of the present applicant is about 65 years and the complainant is younger sister-in-law of the applicant. The applicant is suffering from heart disease and under medical treatment. The applicant is a

worker under RTI Act, therefore, he submitted that due to the pending litigations regarding immovable property, the respondent No. 2 has filed a false and frivolous complaint, which is imaginary. As against this, the learned counsel for the respondent No. 2 argued that there are specific allegation against the applicant about the outraging of modesty. Therefore, there is no ground to quash and set aside the first information report.

6. Having gone through the entire papers relating to the previous criminal case and civil suits pending between the parties, we are of the opinion, this must be one of the cause to file the complaint against the applicant. On bare perusal of the contents of the first information report, it appears that those are absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion. However, it appears that the criminal proceeding filed by the respondent No. 2 is manifestly attended with *mala fide* and *prima facie* it appears that proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused with a view to spite him due to private and personal grudge. Therefore, the contents of the first information report appears to be highly improbable. Not only this, the applicant while submitting the application to the Collector for protection from the false and frivolous cases has narrated the various litigations between the parties and how the members of the rival party are likely to file false cases against him with these apprehension in his mind he had given detailed application to the Collector, Jalgaon and after filing of the

complaint by respondent No. 2, the apprehension in the mind of the applicant became a true, therefore, basically it appears that the complaint filed by the respondent No. 2 is due to the previous litigations i.e. civil as well as criminal between the parties and such criminal proceeding cannot be allowed to continue in the interest of justice. Hence, the application is allowed. Relief is granted in terms of prayer clause 'B'.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

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