

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

CRIMINAL APPLICATION NO. 1846 OF 2008

Qureshi Manzoor Ahmed s/o
Faqeer Mohammad, age: 45 years,
Occupation: Service as Head Master
at Maulana Azad High School,
Aurangabad, R/o Plot No.6/2,
New S.T. Colony, Katkat Gate,
Aurangabad.

... APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
City Chowk Police Station,
Aurangabad.
- 2) Tarranum Sultana D/o Osmankhan,
Age: 30 years, Occu. Service,
R/o Chistiya Colony N-6,
Plot No.240, Near Safa Washing
Centre, Aurangabad.

... RESPONDENTS

...
Mr. S. S. Kazi, Advocate for Applicant.
Mr. S. J. Salgare, APP for Respondent No.1.
Mr. Joydeep Chatterji, Advocate for Respondent No.2.

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WITH

CRIMINAL WRIT PETITION NO. 691 OF 2007

Dr. Abdul Gaffar Quadri s/o
Abdul Razzak Quadri,
Age: 50 yrs, Occ : Medical Practitioner,
R/o Roshan Gate Aurangabad.

... PETITIONER

VERSUS

- 1) The State of Maharashtra.
- 2) Tarranum Sultana D/o Osman Khan,
Age: 30 years, Occu. Service,
R/o Chistiya Colony No.6,
Plot No.240, Near Safa Washing
Centre, Aurangabad.

... RESPONDENTS

...

Mr. D. S. Bharuka, Advocate for Petitioner.
Mr. S. J. Salgare, APP for Respondent No.1.
Mr. Joydeep Chatterji, Advocate for Respondent No.2.

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

DATE : 19th June, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The first proceeding is filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.194 of 2007, register with City Chowk Police Station, Aurangabad, for the offences punishable under Section 354, 509, 109 read with 34 of the Indian Penal Code. Relief is also claimed to quash the proceeding bearing S.C.C. No.9355 of 2007, which is filed in the said crime. The writ petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for the same relief in

respect of same crime.

2 Both the sides are heard.

3 The FIR was given by Respondent No.2 Tarranum in respect of incident dated 3rd November, 2007. She is a widow and she was serving as Assistant Teacher in Maulana Azad High School, Buddi Lane, Aurangabad. Dr. Gaffar Quadri is controlling the institution, which runs the school and he is the Petitioner in the writ petition. Qureshi Manzoor Ahmed was the Headmaster of the said school at the relevant time.

4 Allegations are made by the first informant that on 3rd November, 2007 at about 17:00 hours when she was present in the campus of the school, Muzamil Ahmed, one accused of present matter, came towards her and said that on that night it was necessary for her to go to the dispensary of Dr. Quadri. The first informant said that she had no desire to go to the dispensary and there was no reason for the same. Muzamil Ahmed said that she should realize the purpose for calling her at the night time and she must go there as there was a possibility of her removal from service by Dr. Quadri or he

may transfer her to other place. The first informant was firm and said that she would not go to the dispensary of Dr. Quadri. She has made allegations that Muzamil Ahmed then held her hand with bad intention and due to that there was insult to her modesty. She immediately contacted the Headmaster, the Applicant of other proceeding, and informed him about the incident. The Headmaster said that if Dr. Quadri had called her to the dispensary, she needs to go to the dispensary. She gave report about the incident to police on 3rd November, 2007 itself at about 23:15 hours and crime was registered for the aforesaid offences.

5 The submissions made and the FIR as reads show that Petitioner Dr. Quadri had not directly asked the first informant to go to the dispensary in the night time. In FIR also, specific allegations of insult to the modesty are made against Muzamil Ahmed and not against Dr. Quadri. Similarly, the Headmaster had only expressed that if Dr. Quadri had asked her to go to the dispensary, it was necessary for her to go to the dispensary. It cannot be said that the Headmaster had bad intention in giving such advise. He did not use the words to constitute the offence punishable under Section 509 of

the Indian Penal Code. Thus, even if the matter is considered as it is, it cannot be said that Petitioner Dr. Quadri and Applicant Qureshi have committed any of the aforesaid offences in the aforesaid incident. However, material is sufficient to make out the offence against the third accused. In the result, the following order is passed:

ORDER

- I. Both the proceedings are allowed.
- II. The relief of quashing of the proceeding in favour of the Petitioner in the writ petition and Applicant in the application is granted.
- III. Remaining case is to be tried against the third accused.
- IV. Rule is made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]