

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

Criminal Application No. 01935 of 2018

District : Ahmednagar

Arjun s/o. Sahebrao Wagh,
Age : 61 years,
Occupation : Agriculture,
R/o. Jawkhede Kh.,
Taluka Kotwali,
District Ahmednagar.

.. Applicant

versus

1. The State of Maharashtra,
Through Police Station Officer,
Kotwali Police Station,
Ahmednagar, Dist. Ahmednagar.

2. Jayshree w/o. Narayan Matkar,
Age : 26 years,
Occupation : Household,
R/o. Papya Galli,
Chitale Road,
Dist. Ahmednagar.

.. Respondents
(No.02 -
Original
complainant)

.....

Mr. Rajendra S. Kasar, Advocate, for the applicant.

*Ms. V.S. Choudhari, Additional Public Prosecutor,
for respondent no.01.*

Mr. D.A. Bide, Advocate, for respondent no.02.

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

DATE : 11TH SEPTEMBER 2018.

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

01. Rule. Rule made returnable forthwith. By consent, heard finally.

02. Present application has been filed for quashing the first information report under Section 482 of the Code of Criminal Procedure, 1973. The first information report has been lodged by present respondent no.02, bearing Crime No. I-176/2018, dated 08.05.2018, registered with Kotwali Police Station, District Ahmednagar, for offences punishable under Sections 324, 143, 504 and 506 of the Indian Penal Code.

03. The informant has contended that she resides with her husband and children. Her brother Dnyandev Nagare had come to her at about 07.30 p.m. on 07.05.2018 and told that her mother is ill and, therefore, she should come with him. Thereafter, they both were going from Kalyan Road from the left side of railway bridge. At that time, one Bandu Matkar, Arjun wagh (i.e. present applicant), Subhash Karale, Dilip Nagare, Macchindra Nagare, Digambar Karale and Dnyandev himself made her to stop and asked that she should settle the earlier dispute and she should take her children and come to her parent's house by leaving her husband. They all started abusing her in filthy language, assaulted her by kicks and fist blows. Thereafter, Bandu Matkar had

assaulted her by means of piece of wire. She had got imprints of the wire and covert injuries. On the basis of these allegations, said FIR came to be lodged.

04. The applicant has come with a case, that he is founder member and chairman of Kanifnath Bigar Sheti Sahkari Patsanstha Ltd., Jawkhede Khalsa. A civil dispute is pending between his family and respondent no.02's family in respect of agricultural land. Initially, land bearing Gut No. 194/1 admeasuring 46 R, situated at village Wagholi, Taluka Shevgaon, District Ahmednagar, was owned and possessed by husband of the informant. The husband of the informant sold the said land in favour of one Bapusaheb Gawate and Sunil Virkar for consideration of Rs. 2,10,000/- on 17.05.2012. The reason was given that he wanted to purchase alternate land and to satisfy loan taken for agriculture. The said land Gut No. 194/1, admeasuring 46 R is adjacent to the land of the petitioner. Thereafter, Bapusaheb Gawate and Sunil Virkar had put the said land to sale on 29.10.2014 to the petitioner in the name of his son Tushar by way of registered sale deed for consideration of Rs. 2,60,000/-. At the time of registration of the said sale deed, husband of respondent no.02 Narayan Matkar was present and has signed it as attesting witness. No objection was taken by him at the time of execution of the said

sale deed. Respondent no.02 was, therefore, well aware about the sale of the said land. However, thereafter Regular Civil Suit No. 68 of 2015 was filed by son of the applicant against the family members of respondent no.02, for permanent injunction. Temporary injunction has been granted against respondent no.02 - family members. Thereafter, family members of respondent no.02 developed grudge against the petitioner and, therefore, he has been falsely implicated. Respondent no.02 had also filed a false and fabricated FIR on 20.05.2016 with Tophkhana Police Station at Ahmednagar for offences punishable under Sections 376, 354, 323, 504 and 506 of the Indian Penal Code against the son of the applicant and others. The lodging of the FIR is nothing but harassment due to the previous enmity and, therefore, he has prayed for quashment of the same.

05. The application is objected by respondent nos.01 and 02.

06. Heard learned Advocate Mr. R.S. Kasar appearing for the applicant. Heard learned Additional Public Prosecutor Ms. V.S. Choudhari for respondent no.01. So also, heard learned Advocate Mr. D.A. Bide for respondent no.02. Learned Advocates appearing for the respective parties have argued in support of their respective contentions.

07. Perused the police papers.

08. Perusal of the FIR, in question, i.e Crime No. I-176/2018 would clearly show that only statement is made that the present applicant was present and he had assaulted her by means of fist and kick blows. It is to be noted that initially she says that her brother had taken her towards her mother's house. That means, she was not suspecting anything against brother but then she has also stated that her brother also assaulted her. She has not given as to what interest or motive the applicant had. She has not stated that any way, the applicant was related to her and what interest in separating her from her husband. On the contrary, the documents which have been produced on record by the applicant would show that the informant's husband had sold his land on 17.05.2012 to Bapusaheb Gawate and Sunil Virkar. Thereafter, these two persons have sold the property to applicant's son. One can find signature of the husband of the informant as attesting witness on the said sale deed. Further, in civil suit bearing R.C.S. No. 68 of 2015, injunction is granted against the defendants and the said suit is filed by son of the present applicant against husband of the informant. Thus, it can be seen that she had reason to implicate the applicant. The statements of the witnesses on record would show that none of them is an eye witness including husband of the informant.

No doubt, as per the medical certificate, she had sustained, in all, nine injuries which were simple in nature. However, the object is stated to be hard and blunt object. Therefore, taking into consideration all these facts, case is made out for exercising inherent powers of this Court under Section 482 of the Code of Criminal Procedure, as the case falls within the parameters laid down by the Hon'ble Apex Court in the case of *State of Haryana & others Vs. Ch. Bhajan Lal & others* [AIR 1992 SC 604].

09. Hence, the following order :-

(a) The application is allowed.

(b) The first information report bearing Crime No. I-176/2018, dated 08.05.2018, registered with Kotwali Police Station, District Ahmednagar, for offences punishable under Sections 324, 143, 504 and 506 of the Indian Penal Code and consequential proceedings thereto, to the extent of the present applicant, are quashed and set aside.

(c) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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Puranik

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by Bhagwan
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2018.09.21
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