

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2062 OF 2018

Rajesh Kisan Rathod,
Age : 35 Years, Occu. : Service,
Resident of Plot No. 268,
Matoshrinagar,
Garkheda Parisar, Pundliknagar,
Aurangabad, Dist. Aurangabad. ...Applicant

Versus

- 1] The State of Maharashtra,
Through Police Station Incharge
West Police Station, Jalna,
Dist. Jalna.
- 2] Bhagyashri Laxman Rathod,
Age : 28 years, Occu. : Household,
R/o Paregaon Tanda,
Tq. & Dist. Jalna;
Presently at Shivnagar, Old Jalna,
Tq & Dist. Jalna;
- 3] Ravindra Laxman Rathod,
Age : 38 years, Occu. : Service,
as Ld. Civil Judge, J. D. & J. M. F.
C.
resident of Raver, Tq. Raver,
Dist. Jalgaon;
- 4] Pushpa Tarachand Pawar,
Age : 35 years, Occu. Household,
R/o Shivnagar, Old Jalna,
Tq & Dist. Jalna;
- 5] Tarachand Pawar,
Age : 40 years, Occu. : Service,
R/o Shivnagar, Old Jalna,
Tq & Dist. Jalna;

6] Sanjay Sitaram Rathod,
 Age : 39 Years, Occu. Service,
 R/o Paregaonwadi Tanda,
 Tq. & Dist. Jalna. ...Respondents

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 Mr. A. S. Rasal & S. R. Shinde, Advocates for
 Applicant.
 Mr. A. A. Jagatkar, A. P. P. for Respondent No. 1-
 State.
 Mr. B. R. Kedar, Advocate for Respondent Nos. 2 to
 6.

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

DATE : 26-11-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

01. Present application has been filed by original
 accused for quashing the First Information Report (FIR)
 vide Cr. No. 0119 of 2018 dated 07.05.2018, registered
 with Police Station West, Jalna, Dist. Jalna for the
 offence punishable under Section 354, 354-A and 506 of
 Indian Penal Code; by invoking the inherent powers of this
 Court under Section 482 of Code of Criminal Procedure.

02. Respondent No. 2 has filed the said FIR.
 Respondent No. 3 is the brother of respondent No. 2.
 Respondent No. 4 is the sister and No. 5 is the brother-
 in-law of respondent No. 2. Respondent No. 6 is the
 cousin brother of applicant. It is alleged by the

applicant that respondent No. 2 wanted to marry him. He is unmarried and was in search of a suitable match. Respondent No. 6 had suggested the name of respondent No. 2. He went to see respondent No. 6 to see the girl. He approved her on 20.03.2018. Thereafter, after request of respondent No. 3, he went to see respondent No. 2 at her house on 08.04.2018. Respondent Nos. 2 to 6, parents of respondent No. 2 and one unknown person were present. After taking food, he came back. Thereafter, he came to know from respondent No. 6 that respondent No. 2 is already married and had not informed it to anybody. Applicant told respondent No. 3 on 15.04.2018 that he is not interested in marrying respondent No. 2. Respondents No. 2 to 5 got annoyed with him and started giving him threats over phone with dire consequences. They also gave threat that he would be implicated in a false complaint. Elder sister of respondent No. 2 had called him on 26.04.2018 and gave threat that if he does not marry with her sister then they would lodge complaint against him. He was shocked to know that offence under Section 354, 354A and 506 of Indian Penal Code was registered against him at Jalna. It is alleged that the incident had taken place on 31.03.2018 and the FIR has been lodged on 07.05.2018. There is delay in lodging the FIR. It has

been filed with unnecessary harassment to him. It is based on false and concocted story only for the reason that he has refused to marry respondent No. 2. Hence, he has prayed for quashment of FIR.

03. Heard learned Advocate Mrs. Asha S. Rasal for applicant, learned A. P. P. Mr. A. A. Jagatkar for respondent No. 1- State, and learned Advocate Mr. B. R. Kedar, for respondent No. 2 to 6. Perused the papers of investigation made available. All the learned Advocates have made submissions in support of their respective contentions.

04. It is necessary to see the contents of FIR before proceeding towards discussion. Respondent No. 2 has contended that she is residing with her elder sister since two months prior to 31.03.2018. Her relative had suggested name of bridegroom for her and accordingly accused (present applicant) had come to see her. He had gone to her house on 20.03.2018 with his relative. He conveyed his approval. They left by saying that they would come to settle the date of marriage. Accused had taken her mobile number. Thereafter, they both used to talk on phone with each other. Accused went to her house at about 2.00 p. m. on 31.03.2018. She was alone, at that

time, she gave water to accused to drink. Thereafter, he pulled her left hand with ill intention and told that since he would be performing marriage with her, she should not resist him. He pulled her towards him and told that she should allow him to have sexual intercourse. She was resisting him. Therefore, by twisting her left hand, he uttered that since she is not allowing to have intercourse, he would refuse to marry her. He also threatened that if she discloses the said fact to anybody, then she would be killed. She disclosed the said fact to her sister in the evening, after her return. Her brother is serving at Raver, Dist. Jalgaon. He came for vacation and then she told the said fact to him. Thereafter she lodged the report.

05. The perusal of FIR would show that initially accused had approved informant. Thereafter, it appears that the things did not go further. Both of them are giving their own version. According to informant, the incident in question had taken place on 31.03.2018. However, the FIR has been lodged on 07.05.2018. Apparently, there is delay in lodging the same. But, every delay can not be intentional. Delay in lodging the FIR alone is not a ground to quash FIR. Applicant says that he was receiving threats from respondent Nos. 2 to 5,

but he has not filed any complaint. Except his statement there is nothing to support him. Respondent No. 2 has given reason for the delay. Whether it is sufficient or not would be considered by the trial Court. She has also stated that there used to be talks between her and accused after his approval for marriage. There is no ground to arrive at a conclusion at this stage that the FIR has been lodged with a view to harass accused. He says that respondent No. 6 had later on informed him that respondent No. 2 was married earlier to somebody else. How that information could not have been collected earlier is a question. Possibility of creation of such ground for the refusal to perform marriage with respondent No. 2 can not be ruled out.

06. Important point to be noted is that FIR was lodged by respondent No. 2, but applicant has made respondent Nos. 3 to 6 as party. There was no reason to make them respondent. Respondent No. 3 is a Judicial Officer. He has not played any role. He has been added only because he is brother of respondent No. 2. If respondent No. 2 had consulted him, he can not be held responsible. Unnecessarily, he has been added as respondent. Therefore, for this act of applicant, heavy cost is required to imposed.

07. No case is made out for quashing the FIR.

08. Hence, following order;

ORDER

(i) Criminal Application is dismissed.

(ii) However, applicant – original accused is directed to pay cost of Rs. 25,000/- (Rupees Twenty Five Thousand Only).

(iii) The cost to be paid / deposited with the High Court Legal Services Sub-Committee at Aurangabad within 10 days from today.

(iv) In the event, cost is not deposited within the stipulated period, Registry to move the matter before the Court after expiry of the period, for that purpose only.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-