

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2218 OF 2018

Shaikh Akbar Shabbirk,
Age. 44 years, Occu. Press Reporter,
R/o Plot No.6, S. No.322/1,
Ishrat Park Road, Fakirwada,
Ahmednagar, Dist. Ahmednagar.

....Applicant.

Versus

1] The State of Maharashtra
Through the Investigation Officer
Kotwali Police Station, Ahmednagar,
District : Ahmednagar.

2] Ulhas S/o Popat Dugad,
Age 47 years, Occu. Head master,
R/o Madhuban Colony, Gulmohar Road,
Savadi, District: Ahmednagar.

....Respondents.

Mr. D.A. Bide, Advocate for Applicant.

Mr. M.M. Nerlikar, APP for Respondent No.1/State.

Mr. A. D. Ostwal, Advocate for Respondent No.2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 29/11/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The present proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 342/2018 registered with Kotwali Police Station, Ahmednagar for the offences

punishable under section 384 of Indian Penal Code and sections 91 and 92 of Right of Persons with Disabilities Act, 2016. Both the sides are heard.

3) The F.I.R. is given by respondent No. 2 and in the F.I.R., he has made allegations against the present applicant, who is press reporter that the present applicant had illegally collected some personal information about the first informant from his school and then he had filed complaint to Education Department to raise objection to appointment of first informant on the post of Head Master. Due to this, inquiry was made and the approval given to the appointment of the first informant on the post of Head Master was cancelled. The said decision of the department is challenged by the first informant before the School Tribunal and according to him, the School Tribunal has granted stay to the said order.

4) It is the contention of the first informant that he had sent his two friends to the present applicant to request him not to harass him and at that time, the applicant asked to give Rs. Five lakh for settling the matter. According to him, due to this demand, he became sick and he was required to take treatment. It is his contention that he is physically handicapped person and he has gone in to depression due to pressure tactics used by the present

applicant. Due to these allegations, the crime is registered against the present applicant.

5) The submissions made and the record show that before giving of the report by the first informant, the appointment of the first informant on the post of Head Master was cancelled and the decision was taken by the concerned department. Thus, after that decision, nothing was in the hands of the present applicant and he could not have extracted money from the present first informant. If the appointment was illegal, there was no question of revoking that decision by the department. This point will be considered by the School Tribunal and the present applicant is not necessary party to that proceeding. Further, the allegations are made that only after removal of the first informant from the post of Head Master, the demand was made and that too, when the first informant sent some persons to the applicant. Thus, the allegations do not make out case for extortion and it is also not appearing probable that after removal of the first informant from the post of Head Master, demand of amount was made by the present applicant.

6) There will be material like oral evidence of the first informant and oral evidence of his friends, who had allegedly approached the applicant for making request on behalf of the first

informant. In view of the aforesaid circumstances, it is not possible to accept those allegations. The learned counsel for first informant placed reliance on some observations made by this Court while deciding **Criminal Application No. 6141/2017 (Khalil s/o. Saif Sayyad Vs. The State of Maharashtra and Anr.)** decided on 4.7.2018. The facts of that case were totally different and there was some concrete record in respect of demand of money. That case cannot help the first informant. Thus, nothing can be achieved by filing case against the present applicant. It will be misuse of the process of law as due to present applicant, action was taken against the first informant and now the first informant is after the present applicant. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'B'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/