

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

CRIMINAL APPLICATION NO.3959 OF 2006

Bibi Hafez Jamal @ Irfana D/o
Kaalimulla Khan
Aged: 29 years, Occu.: Advocate,
R/o: 5, Yasmin Plaza, Champa
Chowk, Roshan Gate Road,
Tal. & Dist: Aurangabad.

... **Applicant**

VERSUS

1. The State of Maharashtra.
2. Nasar Chause S/o Sale Chause
Age: 52 years, Occ: Business
R/o Mandhai, Tal. Nanded
Dist. Nanded.

... **Respondents**

Advocate for Applicant: Mr. Rajendra Deshmukh and Mr. Rajendra Sanap
APP for Respondent State: Mrs. V.S. Choudhari
Advocate for Respondent No. 2: Mr. S.B. Bhapkar

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

DATE : 10th August, 2018

JUDGMENT: (PER T.V. NALAWADE, J.)

1. The proceeding is filed under section 482 of the Criminal Procedure Code for the relief of quashing of F.I.R. registered on the basis of directions given in RCC No. 966/2001 by Chief Judicial Magistrate, Nanded and Charge sheet filed in the said FIR and Criminal case bearing RCC No. 1224/2001 pending in the file of learned JMFC,

Nanded for the offence punishable under sections 406, 457, etc. of the Indian Penal Code.

2. Both sides are heard.

3. This Court has carefully gone through the allegations made against the present applicant and the allegations made against Kalimullha Khan, father of the present applicant. The allegations are made that he was looking after the affairs of the school namely Madarse Aydroosiya, Arab Galli Nanded. The property belongs to Hazrat Habib Mujtaba Bin Habib Jaffar- Al Aydroons. Allegations are made that main accused has misappropriated an amount of Rs.12 lakh and of certain articles. Allegations are made against the present applicant, being daughter of main accused. Allegations are made that she was also involved in the commission of theft together with other accused persons and had taken away the articles. The first informant however has no personal knowledge about the involvement of the present applicant.

4. Papers of investigation do not show that any articles are recovered from the possession of the present applicant. The applicant is shown as accused No.5 in the charge sheet. In view of the nature of

material available against the applicant, this court holds that nothing can be achieved if she is asked to face the trial for the aforesaid offence. It appears that application for discharge was filed by the present applicant but it was rejected and the revision filed against the said order is pending before the Sessions Court. The same cannot come in the way of this court while exercising its powers under section 482 of the Criminal Procedure Code. After decision of this Court, the further proceedings against applicant would stand disposed of automatically.

5. In view of the above, the application is allowed. Relief is granted in terms of prayer clause (B). Rule is made absolute in those terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC