

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

CRIMINAL APPLICATION NO. 4869 OF 2017

Pradeep Radhesham Sawant,
Age 52 years, Occu. Service as
Additional Executive Engineer,
(Flying Squad) M.S.E.D.C.L.
R/o. Borse Nagar, Near OM Building,
Gondur Road, Dhule, Dist. Dhule.

....Applicant.

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Nandurbar City Police Station,
Nandurbar, District Nandurbar.
2. Ashabai w/o. Namdeo Chaudhary,
Age 34 years, Occu. Household,
R/o. Sakri Naka, Near Saibaba Temple,
Nandurbar, District Nandurbar.

....Respondents.

Mr. S.M. Godsay, Advocate for applicant.

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

Mr. D.D. Choudhari, Advocate for respondent No. 2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.**
DATED : 28/08/2018.

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

- 1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
- 2) The proceeding is filed under section 482 of Criminal

Procedure Code for relief of quashing of F.I.R. No. 175/2017 registered with Nandurbar City Police Station for offences punishable under sections 354, 323, 34 etc. of Indian Penal Code. Relief of quashing of the chargesheet filed in C.R. No. 175/2017 is also claimed. Both the sides are heard.

3) The applicant is employee of Electricity Distribution Company and he is working as Additional Executive Engineer. Allegations are made against the present applicant by one lady in F.I.R. dated 17.5.2017 that on 17.5.2017 when she was present in the shop, present applicant, one Shri. Vyas and 4-5 other persons came to her shop and they said that they wanted to check the meter of electricity. It is her case that at the relevant time, only ladies were present in the house and so, she requested the present applicant to come afterwards. Allegations are made that present applicant pushed and pulled her and gave threats by saying that she should not interfere in their work. It is her case that electricity meter was then taken over by them and her signatures were obtained on some papers. She gave report and at 13.50 hours crime came to be registered. The learned APP submitted that supplementary statement was recorded and in the supplementary statement, the first informant stated that the present applicant had touched her at chest.

4) The learned counsel for applicant submitted that on 17.5.2017 the present applicant and other employees had visited the place for checking the electricity meter and when they found that there was possibly theft of electricity as meter was running slowly, they prepared panchanama. According to them, on that day son of the present first informant picked up quarrel with them when panchanama was prepared and interfered in discharge of public duty which the applicant was discharging. On inquiry, they learnt his name as Pankaj and on 17.5.2017 itself report was given by the present applicant against Pankaj and the crime at C.R. No. 174/2017 was registered in the same police station at 12.35 hours for offences punishable under sections 353, 323 etc. of IPC. Copy of the said F.I.R. is produced on the record. The learned counsel submitted that subsequently, on the basis of checking done, they realised that the family of the present first informant had committed theft of electricity and on 18.5.2017 another F.I.R. was given against the consumer and family members for offence punishable under section 135 of Electricity Act, 2003. Copy of the said F.I.R. is also produced on the record.

5) The learned counsel for applicant submitted that only to pressurise the applicant, false report was given by lady of that house

and that needs to be quashed. There is force in this submission. These days when action is taken like present one by the public servant, some incident is created and attempt is made to pressurise the officers. Unfortunately, the allegations of aforesaid nature for which the crime can be registered under section 354 of IPC are also made. In the present matter, considering the age of first informant and the circumstance that the present applicant was there with more than four employees, it does not look probable that he misbehaved with the said lady and there was intention to insult to her modesty. It can be said that some incident was created by son of the lady and when they realised that the son will be booked for the offence punishable under section 353 of IPC, they gave report against the present applicant. This will be abuse of process of law if the present applicant is asked to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'B-1' and chargesheet filed in F.I.R. No. 175/2017 by Nandurbar City Police Station is hereby quashed and set aside. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/