

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

CRIMINAL APPLICATION NO. 454 OF 2019

1. Shaikh Iftekhar Ahmed s/o Nisar Ahmed,
Age 35 years, Occu. Legal Practitioner,
R/o Idgahnagar, Vaijapur, Taluka Vaijapur,
District Aurangabad.
2. Rubina w/o Shaikh Iftekhar,
Age 22 years, Occu. Household,
R/o as above.
3. Shabana w/o Javed Pathan,
Age 20 years, Occu. Household,
R/o. Khandala, Tq. Vaijapur,
Dist. Aurangabad.
4. Nisar Shaikh Allahbaksh,
Age 55 years, Occu. Labour,
R/o. Chalisgaon, Tq. Chalisgaon,
Dist. Aurangabad.
5. Zakiyabi w/o Shaikh Nisar,
Age 40 years, Occu. Household,
R/o. As above.
6. Zarinabi @ Munni w/o Iqbal Baig,
Age 40 years, Occu. Household,
R/o. Khan Galli, Vaijapur,
Taluka Vaijapur, Dist. Aurangabad.

... APPLICANTS
(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Vaijapur Police Station,
Taluka Vaijapur, Dist. Aurangabad.

2. Sandip s/o Baliram Chavan,
Age 26 years, Occu. Service as
Police Constable, Vaijapur Police Station,
Taluka Vaijapur, Dist. Aurangabad.

... **RESPONDENTS**

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Mr. M. N. Shaikh, h/f Mr. S. S. Kazi, Advocate for Applicants.
Mr. S. B. Yawalkar, APP for Respondent No.1 / State.

CORAM : **T. V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 25th April, 2019.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The proceeding is filed for relief of quashing of FIR
No.412 of 2018, registered with Vaijapur Police Station, District
Aurangabad, for the offences punishable under Sections 353, 332,
188, 143, 147, 149 and 504 of the Indian Penal Code.

3 The crime is registered on the basis of report given by one

Sandip Chavan, police constable attached to Vaijapur Police Station. He was assigned the duty of service of notice issued by Judicial Magistrate First Class, Vaijapur to the Complainant, present Applicant No.3 Shabana. Applicant No.3 had filed report in Vaijapur Police Station and C.R. No.407 of 2018 was registered. In that FIR, application was moved for bail by Javed Pathan, husband of Applicant No.3 and in that connection the Court wanted to give hearing to Applicant No.3, Shabana. Chavan collected that process. He went towards the place where Applicant No.3, Shabana was living. After reaching the place, which is situated near Naugadi Baba Dargah, he noticed that three ladies and one man were sitting near the entrance gate of Dargah. He knew Applicant No.3 and so he informed her that there was notice for her of Court and she needs to accept that notice and give signature as acknowledgment of receipt of notice. Applicant No.3 said that she would consult her Advocate Shaikh Iftekhar, Applicant No.1. She called Applicant No.1 to the spot and he went there with a lady, Applicant No.2. Applicant No.2 is the wife of Applicant No.1. Notice was read by Applicant No.1 and then he tried to destroy that notice and ultimately kept it with him and said that there was no necessity for Applicant No.3 to sign on anything. When

first informant, Chavan said that it was Court's process and it was not proper to destroy it, Applicant No.1 gave slap to the first informant, Chavan and then other ladies started assaulting him. During incident, Applicant No.1 gave threat that he would be implicated in false molestation case. On the same day, FIR came to be given.

4 In police papers, there is a copy of notice given to first informant and there is also report submitted by the first informant, which is to aforesaid effect. Thus, there is a record in support of the allegations made in the FIR. Main allegations are against Advocate and Applicant No.3, Shabana. Other allegations are vague and they are as against Applicant Nos.2 and 4 to 6. It can be said that due to improper advise of Applicant No.1, Advocate, the incident in question took place. Applicant No.3 appears to be educated lady and that can be seen from her signature appearing on the proceeding filed in the Court of Judicial Magistrate First Class, Vaijapur bearing R.C.C. No.492 of 2018. The signature is in English and so it can be said that it was necessary for her to accept the notice, but she acted as per the advise of the Advocate and she interfered in the discharge of the duty of first informant, Chavan. So, this Court holds that relief can be given

to Applicant Nos.2 and 4 to 6, but relief cannot be given to Applicant Nos.1 and 3. The learned counsel for Applicant Nos.1 and 3, on instructions, submitted that he wants to withdraw the proceeding of Applicant Nos.1 and 3. In the result, the following order is passed:

ORDER

- I. The application of Applicant Nos.1 and 3 is disposed of as withdrawn and rule is discharged to that extent.
- II. The application of Applicant Nos.2 and 4 to 6 is allowed. Relief is granted to Applicant Nos.2 and 4 to 6 in terms of prayer clause (B) and rule is made absolute to that extent.

[MANGESH S. PATIL, J.]

[T. V. NALAWADE, J.]