

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

CRIMINAL APPLICATION NO. 2325 OF 2018

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| 1 | Mhd. Mazhar Mhd. Iqbal,
Age : 35 years, Occu. Service,
R/o: Rahemant Nagar, Parbhani,
Tq. & Dist. Parbhani. | |
| 2 | Mhd. Salauddin Mhd. Badiyoddin,
Age : 44 years, Occu. Service,
R/o: Iqbal Nagar, Parbhani,
Tq. & Dist. Parbhani. | Applicants
(Original
Accused) |

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VERSUS

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| 1 | The State of Maharashtra,
Through its New Mondha Police Station,
Parbhani, Tq & Dist. Parbhani. | |
| 2 | Shaikh Shahana Begum Shaikh Gulzar,
Age: 44 years, Occu. Service,
R/o: Kamel Urdu High School,
Yousuf Colony Wangi Road, Parbhani,
Tq. and Dist. Parbhani. | .. RESPONDENTS |

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Mr. Shivprasad G. Jadhav, Advocate for Applicants.
Mrs. V. S. Chaudhari, APP for Respondent No. 1.
Mr. M. C. Syed, Advocate for Respondent No.2.
Mr. R. B. Dhaware, Advocate for Respondent No. 2 (Appointed).

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**CORAM : T.V. NALAWADE &
K. K. SONAWANE, JJ.**

DATED : 28th AUGUST, 2019.

ORAL JUDGMENT :- (Per: K.K. SONAWANE, J.)

1. Rule. Rule made returnable forthwith. Heard finally, with the consent of both sides.

2. The applicants-original accused No. 1 and 2 preferred present application under Section 482 of the Code of Criminal Procedure ("Cr.P.C.") seeking relief to quash and set aside criminal proceeding of

Regular Criminal Case No. 47 of 2019, initiated pursuant to First Information Report ("FIR") bearing Crime No. 200 of 2018 registered with Nava Mondha Police Station, Parbhani, District Parbhani, for the offences under Sections 354, 509 and 294 read with Section 34 of Indian Penal Code ("IPC").

3. It has been alleged on behalf of prosecution that both the applicants are employed as Assistant Teachers in the Urdu High School run by Kamel Education Society, Parbhani. The respondent No.1-original complainant was also attached to the School as an Head Mistress. It has been contended that husband of respondent No.2 was the Secretary of alleged Kamel Education Society. He was also working as Clerk on the establishment of said School. According to applicants, respondent No.2- complainant and her husband used to collect 20 % amount from the salary of employees of the School, illegally. But, the applicants raised objection for such illegal demand of money from employees of the school. They had also ventilated the grievance to the concerned Education Officer, Zilla Parishad, Parbhani. But, there was no any action taken on behalf of Zilla Parishad. The illegal activities of respondent No.2- complainant and her husband for collecting 20 % amount from the salary of employees of the School were continued. They used to adopt method of pressurizing the employees to collect the amount. It has been alleged that in the month of May-2017, applicant No.1 Mhd. Mazhar approached to the respondent No.2 Head Mistress and requested to release his salary. But, she made demand of 20 %

amount from the salary, which remained unpaid since last six months. The applicant No.1 Mhd. Mazhar was not willing to pay amount. Therefore, he approached to ACB, Sleuth, Parbhani. Pursuant to his complaint, ACB personnels led trap on 01-07-2017 and caught raid-handed one Baliram Mhaske, servant of the school, while accepting bribe amount on behalf of respondent No.2 – Head Mistress and her husband. Special (ACB) Case No. 2 of 2018 came to be filed against respondent No.2 and others. The applicants further added that on 12-07-2018, they filed an application to Nava Mondha Police Station, Parbhani and expressed their apprehension that respondent No.2 Head Mistress and her husband demanding 20 % amount from their salary illegally and they had also given threats that she will embroil them by making false allegations of her molestation. However, on 24-07-2018, respondent No.2 approached to the police of Nava Mondha Police Station, Parbhani and filed the impugned report that both the applicants on 23-07-2012 at about 12.40 p.m. in the School caught-hold her hand and pushed her. They also used obscene language towards respondent No.2 and attempted to molest her.

4. Pursuant to FIR, Police of Nava Mondha Police Station, District Parbhani, registered the Crime No. 200 of 2018 under Sections 354, and 509 read with Section 34 of IPC and set the penal law in motion. The IO swung into action and recorded statements of witnesses acquainted with the facts of the case. He collected the relevant documents and after completion of investigation, IO filed the charge-

sheet against applicants bearing RCC No. 47 of 2019, which is pending before the learned Judicial Magistrate, First Class, Parbhani.

5. Learned counsel for the applicants-original accused vehemently submits that the present complaint is false, baseless and fabricated one. The applicants are the innocent of charges pitted against them. They have not committed any crime. But, they are implicated in this case by making false accusation. The present complaint came to be filed maliciously with ulterior motive to wreak vengeance against applicants. All the allegations are imaginary and fabricated one. There are CCTV Cameras installed in the School. The applicants made request to the management of the school to furnish CCTV footage. They had also insisted the IO to collect the CCTV footage, but, all efforts did not evoke result. The present proceeding is nothing but an abuse of process of law. The complainant, taking umbrage of earlier complaints to ACB etc, filed the present FIR to harass the applicant.

6. The learned APP as well as learned counsel for respondent No. 2-first informant submit that the allegations made in the FIR *prima facie* constitute the offence against the applicants. It cannot be said that the alleged FIR is an abuse of process of law. The applicants attempted to molest respondent No. 2 by using obscene language. Therefore, it would unjust and improper to set aside and quash the proceeding by exercising powers under section 482 of the Cr.P.C.

7. We have given anxious consideration to the arguments advanced on behalf of both sides. We have also delved into the relevant documents produced on record. It is not in dispute that the applicants and respondent No.2 were the employees of the School as

Assistant Teachers and Head Mistress respectively. The documents produced on record reflect that there were strain relations between applicants and respondent No.2. The applicants cast allegation about illegal demand of 20 % amount from the salary of employees. It is to be noted that the IO recorded statements of witnesses acquainted with the facts of the case. But, no any employee of the School came forward with specific allegation against respondent No.2 Head Mistress that she used to collect 20 % amount from their salary illegally. In contrast, there are witnesses like parents of students studying in the School, who stated about the overt-act of present applicants for molestation of respondent No. 2. In such circumstances, it would be unjust and improper to believe the contentions propounded on behalf of applicants. It would hard to consider that the present proceeding be an abuse of process of law. Be that as it may, it is for the trial Court to appreciate the contentions put-forth on behalf of the applicants on the anvil of merit. We do not find it justifiable to exercise the inherent powers under Section 482 of Cr.P.C. to quash and set aside the proceeding at the behest of applicants. In the result, the Criminal Application, being devoid of merit, deserves to be dismissed. Accordingly, the Criminal Application stands dismissed. Rule is hereby discharged. The fees of appointed counsel is quantified as Rs.3000/- (Rs.Three Thousands Only) and it is to be paid through High Court Legal Services Authority, Sub-Committee, Aurangabad. No order as to cost.

Sd./-

[K. K. SONAWANE]
JUDGE

Sd./-

[T.V. NALWADE]
JUDGE