

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2580 OF 2018

Ramesh s/o Dhondiram Mane,
Age-56 years, Occu:Service,
R/o-Laxminagar, Garkheda,
Aurangabad,
Tq. & Dist-Aurangabad.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through: Police Inspector,
Police Station, Mukundwadi,
Aurangabad,
Tq. & Dist-Aurangabad,
- 2) Manjusha w/o Abhijit Mane,
Age-27 years, Occu:Household,
R/o-Shivshakti Apartment,
Peer Bazar, Osmanpura,
Aurangabad,
Tq. & Dist-Aurangabad.

...RESPONDENTS

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Mr.G.G. Suryawanshi Advocate for Applicant.
Mr.S.B. Narwade, A.P.P. for Respondent No.1.
Mr.N.S. Ghanekar Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

DATE : 16TH JANUARY, 2019

JUDGMENT [PER S.S. SHINDE, J. :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. This Application is filed by the Applicant praying therein to quash and set aside the First Information Report No.181 of 2018 dated 1st July, 2018, registered with Mukundwadi Police Station, Aurangabad for the offences punishable under Sections 307, 354, 354-B, 143, 147, 498-A, 323, 504, 506, 509 of the Indian Penal Code and under Section 3 and 4 of the Dowry Prohibition Act, to the extent of the Applicant.

3. Respondent No.2 is the informant who

lodged the First Information Report (FIR) on 1st July, 2018, alleging therein that, she got married with accused No.3 on 25th April, 2018, at Aurangabad and soon after the marriage, her husband, father-in-law, mother-in-law and other relatives of her husband started harassing and ill-treating her. Some serious allegations of abuse and assault are levelled against her husband, father-in-law and mother-in-law.

4. It is the case of the Applicant that he is brother of father-in-law of the informant (accused No.1), and he is residing with his family members at different place from the matrimonial house of the informant. The Applicant is a Government servant and presently working as Entertainment Duty Inspector in Entertainment Department at Collector Office, Aurangabad. The Applicant is not at all concerned with the incidents alleged in the First Information Report.

The name of the Applicant is cursorily referred in the FIR and no specific role is attributed to him. Hence this Application is filed praying therein to quash the FIR to the extent of the present Applicant.

5. Learned counsel appearing for the Applicant submits that the allegations made in the FIR are very general in nature and no specific role is attributed to the Applicant. In the FIR only allegation made against the Applicant is that he abused the informant and no other allegations are levelled against him in the entire FIR. He further submits that the Applicant is residing separately at Garkheda area and false allegations are levelled against him. Learned counsel, referring to the order dated 11th July, 2018, passed by the Sessions Judge while releasing the Applicant on anticipatory bail, submits that even the Sessions Court has observed that, the say

filed by the Investigating Officer clearly discloses that there is no any specific role attributed to the Applicant. Learned counsel placed reliance upon the order passed by the Division Bench of this Court (CORAM: T.V. NALAWADE AND SMT. VIBHA KANKANWADI, JJ.) in Criminal Writ Petition No.1411 of 2017 (Sushil s/o Omprakash Mane and another vs. State of Maharashtra and another) along with Criminal Writ Petition No.1318 of 2018, dated 7th December, 2018, filed by other three co-accused in the same crime, and submits that both the said Writ Petitions were allowed and FIR to the extent of said three accused has been quashed and set aside, by observing that the allegations made against the petitioners therein were very vague in nature. Learned counsel further submits that, allegations against the present Applicant are also very vague and none of the ingredients of the alleged offences get attracted even upon reading the allegations in the

FIR. Therefore, learned counsel appearing for the Applicant submits that the Application may be allowed.

6. On the other hand, learned A.P.P. appearing for the State invites our attention to the allegations made against the Applicant in the FIR and submits that upon careful perusal of the allegations in the FIR it is clear that the ingredients of the alleged offences have been disclosed and therefore it needs further investigation so as to take those allegations to the logical end. Hence it is prayed that the Application may be rejected.

7. We have given careful consideration to the submissions made by the learned counsel appearing for the Applicant and learned A.P.P. appearing for the State. With their able assistance we have perused the grounds taken in

the Application, annexures thereto, and the allegations in the First Information Report. We have also carefully perused the order passed by the Division Bench of this Court in Criminal Writ Petition No.1411 of 2017 with Criminal Writ Petition No.1311 of 2018, referred above.

8. Perusal of the FIR shows that some specific instances of ill-treatment are mentioned, but the same are against husband, father-in-law and mother-in-law, and not against the present Applicant. The allegations made against the present Applicant are very vague and general in nature. The Applicant is admittedly not living in the house where the first informant cohabited with her husband after the marriage.

9. In the facts of the present case, upon careful perusal of the contents of the First Information Report, we are of the opinion that as

no specific role is attributed to the Applicant, continuation of further proceedings on the basis of the FIR would be an abuse of process of law and exercise in futility, so far as the present Applicant is concerned. In that view of the matter, an inevitable conclusion is that the First Information Report, deserves to be quashed and set aside, to the extent of present Applicant.

10. In the result, the Criminal Application is allowed in terms of prayer clause "B]" of the Application. Rule is made absolute in above terms.

[R.G. AVACHAT, J.]

[S.S. SHINDE, J.]

asb/JAN19