

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR

CRIMINAL APPLICATION (APL) NO.569 OF 2014

- 1] Bapurao Abhiman Hinge,
Aged 74 years,
- 2] Sou. Lilabai @ Chandrakala Bapurao Hinge,
Aged 65 years,
- 3] Vinod @ Ruprao Bapurao Hinge,
Aged 42 years,
- 4] Sou. Madhuri Vinod Hinge,
Aged 38 years, Occupation - -

Nos. 1 to 4 resident of Gavha Farkade,
Tahsil Dhamangaon Railway,
District – Amrawati.

- 5] Sou. Pratibha Suresh Rehpade,
Aged 48 years,
- 6] Suresh Shamrao Rehpade,
Aged 50 years,
Nos. 5 and 6 residents of
Bhatkuli, Tahsil Bhatkuli,
District – Amravati.
- 7] Sou. Sheela Govindrao Wath,
Aged 60 years, resident of
Chandur Railway,
District – Amravati,

- 8] Sou. Malu Nandkishore Shende,
Aged 35 years, resident of
Baripura, Badnera, District – Amravati,

9] Nandkishor Daulatrao Shende,
Aged 40 years, R/o. Baripura,
Badnera, District – Amravati.

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APPLICANTS**...V E R S U S...**

1] The State of Maharashtra,
through Police Station Officer,
Kurha, Tahsil Tiwsa,
District - Amravati.

2] Sou. Minakshi Pramod Hinge,
Aged 35 years, resident of
C/o. Suresh Ramchandra Rodge,
resident of Kanjodi, Post Ganuja
Devi, Tahsil Bhatkuli (Jain)
District- Amravati.

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NON-APPLICANTS

Shri J. J. Chandurkar, Advocate for Applicants.

Shri T. A. Mirza, A.P.P. for Non-applicant No.1/State.

**CORAM:- Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATED :- 11.12.2020

ORAL JUDGMENT (PER: Z. A. HAQ, J.) :-

1. None for the non-applicant No.2- Informant.
2. Heard Shri J. J. Chandurkar, learned Advocate for the applicants and Shri T. A. Mirza, learned A.P.P. for the non-applicant No.1/State.

3. Shri J. J. Chandurkar, learned Advocate for the applicants submitted that applicant No.1 Bapurao Abhiman Hinge is dead and therefore, application against him is rendered infructuous as the trial against him has abated.

4. The non-applicant No.2 lodged report with the non-applicant No.1-Police Station on 07.06.2014 against the applicants and Pramod Hinge stating that Pramod Hinge was her husband and the applicants were in-laws, that, after marriage of the non-applicant No.2 with Pramod Hinge, when she went to reside in the matrimonial house, the applicants used to beat her. The non-applicant No.2 alleged that Pramod Hinge married with another woman on 15.04.2012 and after that, the accused used to assault the non-applicant No.2 and used to demand Rs.1,00,000/- from her.

5. In view of report lodged by the non-applicant No.2, the non-applicant No.1- Police Station Officer registered First Information Report No.66 of 2014 against the applicants and after investigation filed charge-sheet for the offences punishable under Sections 498-A, 504 read with Section 34 of the Indian Penal Code and supplementary charge-sheet came to be filed against the applicants for the offence punishable under Section 494 of the Indian Penal Code.

6. Being aggrieved in the matter, the applicants who are in-laws of the non-applicant No.2 have filed this Criminal Application under Section 482 of the Code of Criminal Procedure praying that the First Information Report, charge-sheet and the supplementary charge-sheet lodged against the applicants be quashed.

7. With the assistance of learned Advocate for the applicants, advocate for the non-applicant No.2 and learned A.P.P., we have examined the documents placed on record and have gone through the report lodged with the non-applicant No.1- Police Station against the applicants and Pramod Hinge. Pramod Hinge is not applicant before us.

8. On going through the report lodged by the non-applicant No.2 and the other material on record, we find that the accusations made against the applicants i.e. in-laws of the non-applicant No.2 – Informant are vague and do not make out the ingredients of the offences alleged against them.

9. In our view, the registration of First Information Report against the applicants and the lodging of Final Information Report against them is an abuse of process of Court. We are satisfied that this is a fit case to exercise jurisdiction under Section 482 of the Code of Criminal Procedure as laid down by the Hon'ble Supreme Court in the

Judgment given in the case of ***State of Haryana and ors. Vs. Bhajanlal and ors.*** reported in ***1992 Supp (1) SCC 335***, para 102 of which reads as follows :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Applying the tests laid down in the above judgment, we are convinced that the criminal application has to be allowed.

10. Hence, the following order.

The First Information Report bearing No.66 of 2014 registered against the applicants with the non-applicant No.1 – Police Station and the consequential proceedings as far as against the applicants are concerned, are quashed.

11. Rule is made absolute accordingly.

JUDGE

JUDGE