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

938 CRIMINAL APPLICATION NO.665 OF 2020

**BABURAO S/. PANDURANG KARNE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Mr A. R. Autade, Advocate for applicant;
Mr R. V. Dasalkar, A.P.P. for respondent No.1;
Mr Pratap Vikhe, Advocate h/f Mr R. R. Karpe, Advocate for
respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
B. U. DEBADWAR, JJ.**

DATE : 17th March, 2021

PER COURT:

1. By this application, the sole applicant – accused in First Information Report bearing Crime No.0049 of 2020, prays for quashing of the first information report.

2. With the assistance of the learned Advocate for the applicant, we have gone through the application paper book, have perused the first information report and the further statements of the victim, informant and the statement of a co-student. We have heard the learned Prosecutor as well as the learned Advocate appearing on behalf of respondent No.2.

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3. The minor girl is a student of the 12th standard in a college at Belapur (Bk.), Tq. Shrirampur, Dist. Ahmednagar. The informant is the mother of the victim, who has narrated in the first information report that she is an employee of a Government Residential Primary Health Center at Belapur (Bk.). She belongs to the Hindu Mahar caste. Her daughter, the victim, was a 12th standard Science student in the college. She is born on 03/01/2002. On 18/01/2020, after the informant returned home at about 11.30 p.m., she found that the victim girl was weeping in the house. She tried to coax her into narrating the reason. She was unable to state anything on account of being traumatic.

4. On the next date, a co-employee of the informant had visited the home. The informant narrated to him as to what had happened to her daughter. Thereafter, the informant took the victim into confidence and asked her the reason for being distraught. She narrated to the informant that on 18/01/2020, in between 12.00 to 15.00 hours, her biology test paper was in progress. The applicant - accused is a teacher of the Mathematics subject, who was an invigilator. While checking the class room, he caught one student with copying material and stood near the bench occupied by the victim. The said student was asked to stand up and move away from the bench. The applicant is alleged to have sat on the bench of the victim and while checking for

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further copying material, he touched the thigh of the victim. Noticing the touch to be inappropriate, the victim started moving away from him on the bench. The applicant is alleged to have shifted his position towards the victim so as to continue to touch her. Being shocked by such behaviour, the victim raised from her bench and then left the class room midway in her exam. She came home and was continuously weeping.

5. The learned Advocate for the applicant points out a statement, recorded on 07/02/2020, of a co-student to contend that the co-student had stood up from the bench and moved away and she did not find that the applicant committed any such act, as is alleged. She stated that the teacher tried to search for copying material and then left the bench and went away.

6. We find that the statement of the victim was recorded on 22/01/2020, in which she had stated her ordeal and we find that her statement matches with the statement made by her mother, who is the informant.

7. The three Judges Bench of the Honourable Supreme Court has observed in the matter of **R. P. Kapur Vs. State of Punjab, AIR 1960 SC 866**, that “cases may also arise where the the allegation in the First

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Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged”

8. It was held in catena of judgments in the matters of **Hem Raj & anr. Vs. State of Punjab, (2003) 12 SCC 241** - paragraph 21, **CBI Vs. Tapan Kumar Singh, (2003) 6 SCC 175** – paragraph 20, **State of Maharashtra Vs. Ahmed Shaikh Babajan, (2009) 14 SCC 267** – paragraphs 24 and 26 and **Hallu Vs. State of Madhya Pradesh, (1974) 4 SCC 300**, that a first information report is merely a procedure to set the criminal law in motion. A first information statement under Section 154 of the Code of Criminal Procedure, should contain allegations as regards commission of a cognizable offence and need not necessarily be given by a victim or even by the eye-witnesses.

9. In **CBI Vs. Tapan Kumar** (supra), the Honourable Apex Court held that a first information report is to be tendered to the SHO of a Police Station so as to set the criminal law in motion and it need not give all the ingredients of an offence, which would be fully disclosed only after the conclusion of the investigation. It has been held in paragraph 20 that, a first information report is not an “encyclopedia”.

10. In the **State of Punjab Vs. Dharam Singh, 1987 SCC (Cri.) 621**, the Honourable Apex Court held that the High Court had erred in quashing the first information report by going beyond the averments set out in the first information report. Considering the merits of the case in **Kurukshetra University Vs. State of Haryana, (1977) 4 SCC 451**, the Honourable three Judges Bench of the Honourable Apex Court held that they were surprised that the High Court thought that in the exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, it could quash a first information report even before the police had commenced investigation.

11. We are of the considered view that an offence is made out through the first information report and considering the law crystallized by the Honourable Apex Court, we do not find this to be a fit case to exercise our jurisdiction under Section 482 of the Code of Criminal Procedure.

12. In view of the above, we do not find any merit in this application. The same is, therefore, rejected.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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