

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CRIMINAL APPLICATION NO.678 OF 2021

PRABHAKAR BHAUSAHEB BHAMBARKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr.N.B. Narwade, Advocate for the applicant
Mr.R.V. Dasalkar, APP for respondent no.1.

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

DATE : 16th March, 2021

PER COURT :-

1. By this application, the applicant, who is a suspended Police Constable, has put-forth prayer clauses "B" and "C" as under :-

"B) That, the F.I.R. bearing Crime No.0078/2021 registered with Kotwali Police Station, Ahmednagar dtd. 24.01.2021 for the offence punishable U/s. 354, 354-D, 363, 452, 504, 506 of I.P.C., may kindly be quashed and set aside.

C) Pending hearing and final disposal of this Criminal Application, the

Investigation Officer may be directed to not to file charge sheet in respect of F.I.R. bearing Crime No.0078/2021 registered with Kotwali Police Station, Ahmednagar dtd. 24.01.2021 for the offence punishable U/s. 354, 354-D, 363, 452, 504, 506 of I.P.C."

2. We have considered the strenuous submissions of the learned Advocate for the applicant and the learned Prosecutor. With their assistance, we have gone through the F.I.R. and the application paper book.

3. The F.I.R. filed by the second respondent indicates that the present applicant, who was involved in a controversy, which is subject matter of criminal proceedings, was suspended. He was blaming the Police Inspector Mr.Vikas Wagh as being the mastermind behind his suspension. The applicant had filed certain complaints against Mr. Wagh. He was, therefore, forcing respondent no.2 to file a complaint against Mr.Wagh and make such allegations against him that would expose him to face disciplinary action. Respondent No.2 claims to have

refused to lodge such a complaint.

4. Respondent No.2 has further stated in the F.I.R. that in the month of June, 2020, when she was alone in her house, the applicant entered her house at around 9.00 a.m. when she was in the bathroom. She came out of the bathroom with a towel wrapped around her and after noticing her almost semi-naked, the applicant has taken out his cellular phone and clicked her photographs. In between June-July, 2020, respondent No.2, not being able to recollect the specific date, the applicant again came to her house at 10.00 p.m. and once again started forcing her to file the complaint of atrocities against Mr.Wagh. He threatened her that if she did not file such complaint, he would upload her photographs on social network sites. He then attempted to outrage her modesty. Respondent no.2 told him that she would have to file a criminal complaint against him, if he continued to commit such acts.

5. She further states in the F.I.R. that the applicant then started calling her on Whatsapp and informed her that he would be

instrumental in implicating her in the alleged suicide of social worker by name Jyoti Bhoi, and that, an offence would be registered against her and she will have to rot in jail. He then threatened her that as he was well connected with the Police Department, he would destroy the career of Mr.Wagh. On 19.01.2021, at around 11.30 p.m., when respondent no.2 was all alone in her house, the applicant arrived with three unknown persons and asked respondent no.2 to open the door of the house. Oblivious of the presence of three unknown persons, she opened the door, noticing that the applicant was at the door step. He rushed in and again threatened the informant to lodge a police complaint against Mr.Wagh since he had now been granted bail. As she refused, he started abusing her and outraged her modesty by inappropriately touching her body at several places. With the assistance of the three unknown persons, the applicant bundled the informant into a Car and after she was taken to an unknown place, obtained her signatures on blank papers. On account of these continuous acts, finally she lodged the F.I.R. on 24.01.2021.

6. The contention of the applicant is that he had served a letter on the Ahmednagar District Superintendent of Police on 22.01.2021, expressing his apprehension that respondent no.2 is likely to file a false case against him. It is after this communication was handed over to the Superintendent of Police, that respondent no.2 had registered F.I.R.

7. It requires no debate that an F.I.R. can be quashed if no offence is made out against an accused or if the accused is not in any way alleged to have committed any offence. Per-contra, if some material and allegations are set out in the F.I.R., which indicate the commission of offences and which necessitate investigation, this Court is not expected to exercise it's jurisdiction under section 482.

8. In ***Geeta Mehrotra and another vs. State of Uttar Pradesh and another, (2012) 10 SCC 741***, the Honourable Supreme Court has held that in the absence of any specific allegation and an FIR, prima facie, indicating no case against the co-accused, the Court would have the power to quash an FIR.

9. We do find plentiful allegations against the applicant, in as much as, the applicant appears to have tendered his representation to the Superintendent of Police on 22.01.2021 after he trespassed into the house of respondent no.2 on 19.01.2021 at 11.30 p.m. and allegedly with the assistance of three persons, had forcibly obtained her signatures on blank papers and had threatened her of uploading her photographs on social networking sites.

10. We, therefore, do not find that this is a fit case to exercise our discretion. This application, being devoid of merit is dismissed.

(B.U.DEBADWAR,J.)

(RAVINDRA V. GHUGE,J.)

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