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

930 CRIMINAL APPLICATION NO.3752 OF 2019

**MADHUKAR S/O. DEVCHAND DEORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Mr S. D. Kotkar, Advocate for applicants;
Mr K. S. Patil, A.P.P. for respondent No.1

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

DATE : 17th March, 2021

PER COURT:

1. The learned Advocate for respondent No.2 had caused his appearance on 14/01/2020. Thereafter, this matter was adjourned on a few occasions. Today, none appears for respondent No.2.

2. The learned Advocate for the applicants submits that applicant No.1 - Madhukar, applicant No. 2 - Chitrabai, applicant No.7 - Sonali, applicant No.9 - Rajendra and applicant No.10 - Surekha, seek leave to withdraw this application. In view of the same, this application is disposed off, as withdrawn, on instructions, to the extent of applicant Nos.1, 2, 7, 9 and 10.

3. We have considered the strenuous submissions of the learned Advocate for the applicant Nos.3 to 6 and 8. We have also considered

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the submissions of the learned Prosecutor on behalf of respondent No.1. The husband of the informant – respondent No.2, namely, Tushar Deore, has not preferred an application for seeking quashing of the first information report under Section 482 of the Code of Criminal Procedure.

4. We have gone through the first information report, threadbare with the assistance of the learned Advocate for the applicants and the learned Prosecutor. We find that there are plentiful allegations against the husband Tushar and applicant Nos.1, 2, 7, 9 and 10. Specific instances of mental and physical abuse, an assault and forcibly dragging the applicant to person indulging in evil, *aghor*i and black magic, are set out in the first information report.

5. Applicant No.3 is the married sister of Tushar, who lives in Vadodara, State of Gujarat. Applicant No.4 is the husband of applicant No.3, residing in Vadodara. Applicant No.5 is the married sister of Tushar, who lives with her husband, applicant No.6, in Taluka and District Nasik. Applicant No.8 is the husband of applicant No.7 – Sonali, who is the married sister of Tushar. However, there are specific instances against applicant No.7 – Sonali, of having caused mental and physical abuse to the informant. We find no allegations against applicant Nos.3 to 6 and 8 having indulged in any physical or

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mental harassment of the informant. There are stray instances of the informant having stated that all the accused were disappointed with the gifts given to them on 18/02/2018 at the time of her marriage with Tushar. Beyond such vague allegations, we do not find any specific allegation against applicant Nos.3 to 6 and 8.

6. 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 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”

7. 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 Shekh 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 cognizable offence and need not necessarily be given by a victim or even by the eye-witnesses.

8. In CBI Vs. Tapan Kumar Singh (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”.

9. 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, which could be considered to be a collection of evidence and 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 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.

10. In the instant case, as recorded above, we find that no offence has been made out against the applicant Nos.3 to 6 and 8. Though

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applicant Nos.3 and 5 are the real sisters of husband Tushar, they are already married and one resides with her husband at Vadodara and the other resides with her husband in Nasik. All four of them have been arraigned in the first information report, without any specific allegation against them. Same is the case of applicant No.8, though his wife applicant No.7 – sister of Tushar, faces specific allegations.

11. In view of the above, this application is partly allowed only to the extent of applicant Nos.3 to 6 and 8. The first information report to the extent of these applicants, namely, Hemlata Rajendra, Rajendra Bapu, Bharti Bhushan, Bhushan Wamanrao and Sandeep Gangaram, stands quashed.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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