

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.330 OF 2021**

Nikhil Bhagatsingh Singhani ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Vikram Sutaria i/b. Mr. Kunal Ambulkar, Advocate for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

API- Prashant S. Tayade, Vashi Police Station, Navi Mumbai.

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CORAM : PRAKASH D. NAIK, J.

DATE : 5th FEBRUARY, 2021.

PC :

1. The applicant is apprehending arrest in connection with C.R. No. 305 of 2020, registered with Vashi Police Station on 28th September, 2020 for offences punishable under Sections 354, 354(A), 354(B), 354(D) 323, 504 and 506 r/w. 34 of Indian Penal Code, 1860 (“IPC” for short).

2. The case of the complainant is that husband of her friend Mr.Suman Sinha had rented the shop Gala No. 37/42 Ground Floor, Shiv Centre, Navi Mumbai to the applicant and accused No. 2 from 22nd October, 2018. There were disputes between them over theft of documents and articles. On 5th May, 2019 the applicant and accused No. 2 had called Mr.Suman Sinha to have a discussion over

dispute, but since Mr. Sinha was busy, he had asked his wife Mrs. Ragini Sinha to proceed. Mrs. Ragini Sinha asked first informant to accompany her. The first informant and Mrs. Sinha reached the shop at 2.00 p.m. Applicant and accused No.2 were not there. However, workers were present. Mrs. Sinha then telephoned accused No.2 Pratiksha Singhani to enquire as to when they are reaching. She was informed that they are reaching in short time. Two workers started abusing them and manhandled them. Mrs. Sinha told first informant to wait there and proceeded to Vashi Police Station for lodging complaint. Thereafter, applicant and Pratiksha Singhani came there alongwith two persons. Accused No.2 asked first informant as to why she came there and started abusing and assaulting her. The hand of the first informant was twisted by the applicant. He pulled her dupatta and committed act of outraging her modesty. Her kurta was torn. Accused No. 2 was instigating the applicant and other persons. One of them was video recording the incident. Complainant snatched the phone and threw it on ground. Mrs. Ragini Sinha returned to spot. Police arrived and all of them were taken to police station. On the complaint of complainant N.C. complaint was registered under Sections 323, 504, 506, 34 of IPC. The complainant again visited police station on 18th May, 2019 but complaint of outraging modesty was not recorded. On 20th May, 2019 complainant was threatened by

one Deepak that he has video recording of incident and if complaint is lodged he would make video viral. Thereafter on 21st September, 2020 two persons approached complainant and told her not to lodge complaint and amount of Rs.3,00,000/-would be paid to her. She was threatened.

3. Learned counsel for the applicant submitted that First Information Report ("FIR" for short) lodged by the complainant, is false. The allegations are concocted. The FIR was registered on 24th September, 2020. The incident had occurred at 5th May, 2019. The complainant has lodged an N.C. complaint on 5th May, 2019 for offences under Sections 323, 504, 506 r/w. 34 of IPC. There is no whisper about alleged act amounting to outraging modesty. The complainant then lodged the complaint to police on 11th September, 2019 in which the complainant has alleged the commission of offences under Sections 354(A), 354(B), 354(D) of IPC and other offences. Complainant then filed a private complaint before the learned Magistrate seeking investigation under Section 156(3) of Cr.PC on 23rd September, 2019. Learned Magistrate passed an Order that the complainant is required to be examined for enquiry under Section 200 of Cr.PC. The said order was challenged by the complainant by preferring Criminal Revision Application No. 40 of 2020. Pending the said Revision Application and without order being

set by Court, the complainant had approached the police and by suppressing the aforesaid facts FIR has been registered.

4. Learned APP submitted that the offence under Section 354 is made out. The photographs indicate that the complainant was subjected to assault and the complainant has alleged that accused has outraged her modesty. Learned APP however submitted that it is not clear whether the concerned police station was informed, about private complaint and refusal to direct investigation under Section 156(3) of Cr.PC. There is no illegality in registration of FIR.

5. The incident had occurred on 5th May, 2019. Police had arrived at the spot. Both parties were taken to police station. N. C. was registered on complaint of complainant for offences under Sections 323, 504, 506 r/w. 34 of IPC. No allegations of outraging modesty. Written complaint was filed on 9th September, 2019 wherein it is alleged that accused have committed offence under Section 354 of IPC. Private complaint was filed seeking investigation under Section 156(3) of Cr.PC. By order dated 11th November, 2019 Court observed that detail enquiry is necessary before issue of process and complainant should be examined. Hence, instead of investigation under Section 156(3) inquiry be conducted under Section 200 of Cr.PC. The complainant preferred revision application before

Sessions Court challenging Order dated 11th November, 2019 on 24th February, 2019. There exists dispute between applicants and Mr.Suman Sinha and his wife. Accused No. 4 filed suit before Civil Judge for eviction. On 24th September, 2020 Mr.Suman Sinha has lodged FIR against applicant and others for offences under Sections 452, 380, 427 and 34 of IPC. Considering the aforesaid circumstances, the applicant need not be subjected to custodial interrogation.

6. Hence, I pass the following order.

ORDER

- i. Anticipatory Bail Application No.330 of 2021, is allowed;
- ii. In the event of arrest of applicant in connection with C.R. No. 305 of 2020, registered with Vashi Police Station, the applicant be released on bail on executing P. R. Bond in the sum of Rs.25000/- (Rupees Twenty Five Thousand Only), with one or more sureties in the like amount;
- iii. The applicant shall report Investigating officer on 11th, 12th and 13th February, 2021 between 11.00 am. to 1.00 pm. till filling of charge-sheet;
- iv. Applicant shall not approach the victim or tamper the evidence

in any manner;

(PRAKASH D. NAIK, J.)