

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.371 OF 2018

Anil Janardhan Shinde,
Age : 35 years,
Occupation : Teacher,
Residing at Lonar,
Taluka : Lonar,
District : Buldhana.

... **APPLICANT**

// VERSUS //

1. The State of Maharashtra,
Through the Police Station Officer,
Buldhana City Police Station,
Taluka and District Buldhana.

2. Preeti Anil Shinde,
Age : 30 years,
Occupation : Service / Staff Nurse,
Residing at c/o Sunil Thakur,
A.S.I. Shivshankar Nagar,
Buldhana City Taluka
and District : Buldhana.

... **NON-APPLICANTS**

Shri R. D. Dhande, Advocate for applicant.

Shri S. D. Sirpurkar, Additional Public Prosecutor for non-applicant
No.1-State.

S/Shri R.D.Karode / M. P. Suryawanshi, Advocates for non-applicant
No.2.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.
DATED : 14/01/2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. **Rule.** Rule made returnable forthwith.

2. By this application under Section 482 of the Code of Criminal Procedure, the applicant has challenged the FIR bearing Crime No.150/2018 dated 15/03/2018 registered with the non-applicant No.1 - Police Station for the offences punishable under Sections 420, 468, 471, 199 and 200 of the Indian Penal Code.

3. The applicant is husband of the non-applicant No.2. Due to matrimonial issues, the proceedings before Civil Judge, Senior Division, Buldhana bearing HMP No.31/2016 under the provisions of the Hindu Marriage Act, 1955 were filed. In 2016, the non-applicant No.2 filed proceedings under the provisions of Sections 17, 18, 19, 20 and 22 of the Protection of Women From Domestic Violence Act, 2005 before the Judicial Magistrate First Class, Buldhana. It is alleged that in the said proceedings, a false affidavit was filed by the applicant. The non-applicant No.2, therefore, filed a complaint before the non-applicant No.1 – Police Station alleging that the applicant has made false statement in the affidavit filed before the Court. It is alleged that the husband in the Domestic Violence proceedings has made a statement that he is working as labourer. It is further alleged that in the enquiry held by the officials of the Court, it was revealed that the affidavit filed

by the applicant is false. The First Information Report under Sections 420, 468, 471, 199 and 200 of the Indian Penal Code was, therefore, registered against the applicant.

4. The applicant, therefore, has filed the present application. This Court on 24/04/2018 issued notice to the non-applicants and by way of ad-interim relief, it was directed that the charge-sheet should not be filed against the applicant. The non-applicant No.1, in pursuance of notice issued, filed reply and it is submitted that though the applicant was working as Shikshan Sevak since 01/08/2013, he made false statement in the affidavit before Court in order to absolve him from payment of maintenance to the non-applicant No.2. Therefore, it is prayed that the application deserves to be dismissed.

5. We have carefully considered the contents of the First Information Report. The allegations in the First Information Report are to the effect that the applicant had filed false affidavit in the Court proceedings. After careful consideration of the First Information Report in the light of ingredients of the offences which are alleged against the applicant under Sections 420, 468, 471, 199 and 200 of the Indian Penal Code, assuming the

allegations in the First Information Report to be true, the ingredients of the offences alleged against the applicant are not made out.

6. In so far as the offences alleged to have been committed by the applicant under Sections 199, 200 and 471 of the Indian Penal Code are concerned, in view of bar contained under Section 195(b) of the Code of Criminal Procedure, the First Information Report could not have been registered except on the complaint in writing by the Court or by such Officer of the Court which such Court may authorize in writing in that behalf. In the facts of the present case, it is pointed out by the non-applicant No.2 that as a matter of fact, an application under Sections 199 and 200 of the Indian Penal Code has been filed with the Court before which the alleged false affidavit has been filed by the applicant. It will be open for the non-applicant No.2 to pursue the said application filed under Sections 199 and 200 of the Indian Penal Code according to law.

7. Since the ingredients of the offences alleged against the applicant under Sections 420 and 468 of the I.P.C. are not made out by considering the accusations made against the

applicant, we are satisfied that continuation of the proceedings against the applicant for the said offences would amount to abuse of process of law.

8. We, therefore, pass the following order :-

ORDER

I] First Information Report No.150/2018 dated 15/03/2018 filed by the non-applicant No.2 against the applicant under Sections 420, 468, 471, 199 and 200 of the Indian Penal Code is quashed and set aside.

II] It is made clear that the non-applicant No.2 could be entitled to adopt to pursue the application which she has filed under Sections 199, 200 and 471 of the Indian Penal Code before appropriate Court as contemplated by Section 195(b) of the Code of Criminal Procedure.

9. Rule is made absolute in the above terms.

JUDGE

JUDGE