

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 383/2018

Dr. Samir Alias Mohd. Javed Abdul Wahab & ors.
..VS..
State & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri PR. Agrawal, Advocate for the applicant(s)
Shri T.A.Mirza, APP for the non-applicant no. 1
Shri N.B. Kalwaghe, Advocate for the non-applicant no. 2

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
DATED : 13/01/2021

1] This is an application under Section 482 of the Code of Criminal Procedure challenging F.I.R. No. 222/2018 dated 06/04/2018 registered with the non-applicant no. 1 – Police Station for the offences punishable under Section 420 read with Section 34 of the Indian Penal Code.

2] The first information report came to be registered against the applicants on the accusations that the applicant no. 1 in connivance with the other applicants falsely promised to secure employment to the son of the non-applicant no. 2. It was told to the non-applicant no.2 that the non-applicant no. 2 will have to pay an amount of Rs. 7, 35,000/- for the purpose of securing employment to her son and after payment of the said amount within two months, order of employment of the son of the non-applicant no. 2 shall be issued. It is further alleged that inspite of expiry of period of two months, employment was not provided by

the applicants. When the non-applicant no. 2 complained about not providing employment to her son, the applicant no. 1 told her to transfer her agricultural land bearing Gat No. 20 of Mouje Kolari, Tq. Chikhli, Dist. Buldhana and got the sale-deed executed in his favour. With the above allegations, the first information report came to be registered against the applicants.

3] The applicants have therefore filed the present criminal application challenging the first information report dated 06/04/2018. This Court on 23/04/2018 issued notice to the non-applicants and by way of ad-interim relief, it was directed that charge-sheet should not be filed till the returnable date.

4] The non-applicant no. 1 in pursuance of the notice issued by this Court has filed detailed reply and in para no. 6 of the reply, it has been stated by the non-applicant no. 1 as under :-

“6. The answering respondent further submits that, during the course of investigation of Crime No. 682/2017 the investigating agency has seized several other government stamps & seals, blank bond papers and the beacon lights which are used to the VIP cars. The applicant had always used these beacon lights to personify himself as a higher officer in the government department. The answering respondent during the investigation of the second FIR has also seized various duplicate mark sheet, Adhar cards, School leaving certificates and government letter heads and also several other sale deeds from the accused No. 1.”

5] In para no. 8 of the reply, the non-applicant no. 1 has given the lists of the offences registered against the applicant no. 1. The non-applicant no. 1, in para no. 8 of its reply, has stated as under :-

“8. The answering respondent further submits that, apart from these two offences there are 3 to 4 offences registered against the applicant No. 1 at separate police stations. The details of which is reproduced here below for the kind perusal of this Hon’ble Court.

<i>Sr. No.</i>	<i>Crime No.</i>	<i>Offence u/s</i>	<i>Police Station</i>
<i>1.</i>	<i>143/2009</i>	<i>420 of IPC Sec. 7 of Prevention of Black Magic Remedies</i>	<i>Kondwa, Pune</i>
<i>2.</i>	<i>182/2015</i>	<i>498-A, 420, 323, 504, 506 of IPC,</i>	<i>Buldhana City</i>
<i>3.</i>	<i>281/2016</i>	<i>363, 451 r/w 34 of IPC</i>	<i>Buldhana City</i>
<i>4.</i>	<i>394/2016</i>	<i>353, 504, 506 of IPC</i>	<i>Buldhana City</i>

During the course of investigation it has also revealed that, the applicant No. 1 though prefixes ‘Doctor’ before his name but in fact he is neither having any degree of doctor nor is having any doctorate form any of the universities but only with an intention to mislead and cheat the public at large he prefixes ‘Doctor’ before his name.”

During the course of hearing, learned advocate for the non-applicant no. 2 invited our attention to the complaint filed by Buldhana District Advocate Association

which is signed by more than 200 advocates stating that the applicant no. 1 has threatened the advocate appearing for the non-applicant no. 2 in Buldhana District. The copy of the said application was sent to the Bar Council of Maharashtra. It is further stated by the advocate for the non-applicant no. 2 that taking cognizance of the complaint dated 07/06/2018, an offence came to be registered against the applicant no. 1.

6] We have carefully considered the contents of the first information report. The allegations in the first information report *prima facie*, show fulfillment of ingredients of the offences alleged against the applicants. It is for the prosecution to prove the allegations in the first information report in the trial. Taking into consideration the conduct of the applicant no. 1, as reflected in para nos. 6 and 8 of the reply, we are of the view that this is not a case where extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure can be exercised. The Hon'ble Supreme Court in the case of *State of Haryana and others vs. Ch. Bhajanlal and others* **reported in [1992 Supp. (1) SCC 335]** has laid down in para no. 103 that the power under Section 482 of the Code of Criminal Procedure has to be exercised in exceptional matter and in rarest of the rare case. Considering the allegations made against the applicants and the allegations made in para nos. 6 and 8 of the reply filed by the non-applicant no. 1, we are satisfied that this not is a case which can be said to be exceptional case to invoke our power under Section 482 of the Code of Criminal Procedure.

7] Hence, the criminal application is **dismissed**.

CRIMINAL APPLICATION (APPP) NO. 1159/2018

In view of the dismissal of Criminal Application (APL) No. 383/2018, this application praying for dispensing with the filing of signed copy of first information report does not survive. It is **disposed** accordingly.

JUDGE

JUDGE