

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

CRIMINAL APPLICATION (ABA) NO. 589/2021

(Milind Govindrao Bhongade Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri A. S. Manohar, Advocate for applicant.
Shri S. D. Sirpurkar, APP for non-applicant/State.
Shri S. A. Khan, Advocate for informant/complainant.

CORAM : VINAY JOSHI, J.
DATED : 24.11.2021.

Heard

2. It is the prosecution case that the applicant owns agriculture land. On the day of incident while victim girl aged 13 years was working in the applicant's field, he came there, caught her hand and by offering money, asked to remove clothes. So also, the applicant threatened her for not disclosing the things. The victim girl stated that one Sheikh Naim Kureshi has seen the occurrence and then she returned to the house and disclosed the occurrence to the parent and therefore, the report was lodged on the following day.

3. It is contended that the allegations levelled against the applicant are totally false. False allegations are levelled at the instance of land dispute in between the parties. The applicant owns land bearing Gat No. 96 whilst the victim's family owns adjacent land bearing Gat No. 40. The applicant has produced an order passed by

the Tehsildar dated 27.04.2017, under which right of way was given in between both the lands. It reveals from the order that the applicant has applied for right of way against the informant's grandmother. It is submitted that maternal uncle of alleged witness Sheikh was also party to said proceeding. According to the applicant, though Tehsildar passed order in his favour, still right of way was not given therefore, the applicant has applied to Police on 27.04.2017, 29.05.2017, 19.10.2019 of which copies are produced. It is contended that since there was civil dispute, in order to pressurize the applicant, false report has been lodged by the minor girl at the behest of her family members.

4. The State resisted bail by filing reply-affidavit. The prosecution case in short has been narrated. It is stated that the witnesses have supported the victim's statement. Moreover, the applicant being neighbouring resident, there are high chances of tampering as the victim is minor girl. Learned counsel for informant also opposed the application by making submission.

5. It reveals that the alleged incident took place on 20.06.2021, whilst after 24 hours, the report has been lodged. Be that as it may, the applicant has prima facie produced material to show that a revenue dispute was going on between the parties. The submission that during such dispute, it is improbable that the victim would work in the field of applicant, prima facie bears substance. In earlier land dispute, parental uncle of witness Shikh Naim is said to be party respondent. Certainly one of the object of Section 438 of the Code of Criminal Procedure is to

avoid humiliation by unwarranted arrest. Having regard to the nature of crime, nothing is to be seized at the instance of the applicant. Already interim protection is granted. It is not denied that applicant has attended the Police Station as per direction of this Court. In view of that, applicant's liberty can be protected, however since the parties are neighbouring resident and the victim is minor, certain stringent conditions have to be imposed.

6. Having regard to above facts, following order:-

- (I) Application stands allowed and disposed of.
- (II) Ad-interim order dated 08.09.2021 is hereby made absolute upon same terms and conditions.
- (III) The applicant shall continue to attend the Police Station till filing of charge-sheet. In addition to that, the applicant shall not enter within the territorial jurisdiction of limits of Tehsil Darwha till filing of charge-sheet

JUDGE

Gohane