

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

CRIMINAL APPLICATION (APL) NO. 761 OF 2014

Madhukar Narayan Yelane,
Aged about : 48 years,
Occ : Teacher, R/o 662,
Near Datta Mandir, Sudampuri,
Sakkardara, Nagpur - 9.

... **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through its Police Station Officer,
P. S. Lakkadganj, Nagpur.

2. Mrs. Karishma Govind Galani,
Aged about : 42 yrs.,
R/o 404 Himalaya,
Ambedkar Chowk,
C.A. Road, Nagpur.

... **NON-APPLICANTS**

Shri N. M. Kolhe, Advocate for applicant.

Ms. Mayuri Deshmukh, Additional Public Prosecutor for non-applicant No.1-State.

Shri Pramod Kamble, Advocate h/f Shri S.M.Patrikar, Advocate for non-applicant No.2.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.

DATED : 08/02/2021.

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

1. This is an application filed under Section 482 of the Code of Criminal Procedure challenging the First Information Report No.390/2013 dated 08/12/2013 under Section 354(A)(1) of the Indian Penal Code.

2. The First Information Report came to be registered against the applicant with the accusation that the applicant had offended modesty of the non-applicant No.2 at a place where the applicant and the non-applicant No.2 are working. It is further alleged that the non-applicant No.2 made a complaint about the said incident to the Principal of the School, but she did not pay heed to the complaint of the non-applicant No.2 and therefore, the non-applicant No.2 filed First Information Report against the applicant.

3. The applicant has challenged the registration of First Information Report by filing present application. This Court on 20/12/2014 issued notice to the non-applicants and by way of ad-interim relief, it was directed that the charge sheet shall not be filed in the matter without leave of this Court. This Court on 18/02/2015 issued Rule and continued interim relief granted earlier.

4. The non-applicant No.1 has filed reply and has stated that there is sufficient material available with the Prosecution Agency to prove charges against applicant and the charge sheet in

the present crime is also ready. It is, therefore, prayed that the criminal application may kindly be dismissed.

5. We have carefully considered the contents of First Information Report and the statements recorded by the prosecution. The statements which are recorded by the prosecution are of the Director of the Management where the applicant and the non-applicant No.2 are working, the Principal of the said school and the teacher who was present on the said day of incident. After having considered the statements of Director, Principal and Teacher, it appears that all of them have supported accused by stating that on 07/12/2013 which is alleged date of incident, the accused has not offended modesty of the non-applicant No.2. On the contrary, it is the non-applicant No.2 who has abused the applicant.

6. Learned Advocate for the applicant invited our attention to the complaint filed by the management of the said school with the Police Inspector, Police Station, Lakkadganj, Nagpur on 19/12/2013 wherein the Secretary of the said school had stated that the non-applicant No.2 has habit of making false complaints against the employees working in the said institution.

In the said complaint, several instances of the complaints filed by the non-applicant No.2 against the employees of the institution are stated. One of the complaint which was filed by the non-applicant No.2 was against the then Secretary Shri Govindrao Shrawanji Umredkar on 03/10/2008. It is stated that due to filing of said false complaint, Shri Govindrao Shrawanji Umredkar suffered heart attack and expired.

7. In the backdrop of the statements of witnesses recorded by the Investigating Agency and the complaint filed by the management with Police Station, Lakkadganj, we are satisfied that the prosecution against the applicant is not legitimate a prosecution. We are, therefore, satisfied that the continuation of the prosecution would amount to abuse of process of Court.

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

The First Information Report No.390/2013 dated 08/12/2013 under Section 354(A)(1) of the Indian Penal Code is quashed and set aside.

9. Rule is made absolute in the above terms.

JUDGE

JUDGE