

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

CRIMINAL APPLICATION (APL) NO. 1063/2018

Mohd. Ilyas Mohd Shafi,
Age 60 years, Occ. President Millat
Education Society,
R/o. Near Railway Station, Darwa,
Yavatmal

.... **APPLICANT**

// VERSUS //

- 1] **The State of Maharashtra,**
PSO PS Darwa, Yavatmal
- 2] **Kausar Jameel Abdul Matin,**
Aged about 55 years, Occ. Private
R/o. Near Railway Station Road,
Police Station Darwa, Dist. Yavatmal

.... **NON-APPLICANT(S)**

Shri M.N. Ali, Advocate for the applicant
Shri T.A. Mirza, APP for the non-applicant no. 1
Shri P.A. Gode, Advocate for the non-applicant no. 2

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
FEBRUARY 11, 2021

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

1] Heard.

2] **RULE.** Rule made returnable forthwith.

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3] This is an application under Section 482 of the Code of Criminal Procedure challenging registration of F.I.R. No. 645/2018 registered with the non-applicant no. 1 - Police Station for the offences punishable under Sections 354-A and 354-D of the Indian Penal Code. The first information report came to be registered against the applicant with the accusations that between the year 2012 and 2013 on a Sunday at about 10:00 am, the applicant called the non-applicant no. 2 in his office. The applicant touched the non-applicant no. 2 and demanded sexual favours. When the non-applicant no. 2 refused to the demand of sexual favours of the applicant, the applicant threatened the non-applicant no. 2 to remove her from the post. It is further alleged that when the non-applicant no. 2 was teaching in H.K.M.C Urdu High School at Talegaon Deshmukh, Tah. Darwa, Dist. Yavatmal, the applicant was headmaster and he offended the modesty of the non-applicant no. 2. With these accusations, the first information report was registered on the complaint of the non-applicant no. 2.

4] The applicant has therefore challenged the registration of the first information report by filing the present application. This Court on 06/11/2018, issued notices to the non-applicants. The non-applicant no. 1 in pursuance of the notice issued by this Court filed reply and it is stated that as per the statement of the non-applicant no. 2, the applicant used to touch her

and used to threaten her frequently that if she failed to fulfill his desire, she would be removed from her job. It is further stated that on the basis of preliminary inquiry, there is material against the applicant.

5] The non-applicant no. 2 has also filed her reply. In the reply, the non-applicant no. 2 has reiterated the allegations made in the first information report but has not disclosed the day or month of the alleged incident of offending the modesty of the non-applicant no. 2.

6] On scrutiny of the first information report, it appears that the non-applicant no. 2 has not given the details of the day or month of the alleged incident. Even in the reply filed by the non-applicant no. 2, she has not given the details about the date or month of the alleged incident.

7] Learned advocate for the applicant has pointed out that the applicant is the President of the institution where the non-applicant no. 2 was working. He has also pointed out that there was dispute regarding employment of the non-applicant no. 2 with the institution of which the applicant is the President. He invited our attention to the order passed by the Education Officer in relation to accepting the voluntary retirement of the non-applicant no. 2.

8] On overall consideration of the facts of the case, we are satisfied that there was dispute between the institution where the applicant is the President and the non-applicant no. 2 in relation to her employment. Apart from the said fact, it appears that the allegations in the first information report are vague. Therefore, in our view, continuation of the prosecution against the applicant would amount to abuse of process of the Court.

9] Hence, the following order:-

F.I.R. No. 645/2018 registered with the non-applicant no. 1 – Police Station for the offences punishable under Sections 354-A and 354-D of the Indian Penal Code is quashed and set aside.

Rule is made absolute in the above terms.

CRIMINAL APPLICATION (APPP) NO. 1922/2018

In view of the disposal of the Criminal Application (APL) No. 1063/2018, this application praying for grant of time to remove the office objections does not survive. It is **disposed** accordingly.

JUDGE

JUDGE