

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

CRIMINAL APPLICATION (APL) NO. 1147 OF 2018

Jitendra S/o. Fulchand Khobragade,
Aged about 35 years, Occ.: Service
as Gram Sevak, R/o. Tukum Ward,
Chandrapur, Tahsil and District :
Chandrapur.

.... **APPLICANT.**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Ashti, Taluka :
Chamorshi, District : Gadchiroli.
2. Priti Sharad Masram,
Aged 30 years, Occ.: Gram Sevak,
At Post Waigaon, Tah. Chamorshi,
District : Gadchiroli.

.... **NON-APPLICANTS.**

Shri S.V. Sirpurkar, Advocate for Applicant.
Ms Mayuri Deshmukh, A.P.P. for Non-applicant No.1/State.
None for Non-applicant No.2.

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

ORAL JUDGMENT : (Per : Amit Borkar, J.)

1. Heard.
2. **RULE.** Rule made returnable forthwith.

3. This is an application under Section 482 of the Code of Criminal Procedure challenging registration of First Information Report No.112 of 2018, registered with non-applicant No.1-Police Station for the offences punishable under Sections 143, 149, 342, 353, 504 and 506 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicant with the accusations that on 10/11/2018 during the course of Gram Sabha meeting the applicant around 01:30 p.m. entered the place of the meeting and abused the non-applicant No.2. It is also alleged that the applicant threatened the non-applicant No.2 and incited other members of the Gram Panchayat, with the result, other members of the Gram Panchayat tried to assault the non-applicant No.2 and abused the non-applicant No.2. It is further alleged that the male and female members named in the First Information Report wrongfully confined the non-applicant No.2 and released her after at about 02:00 p.m. when police officials of the concerned Police Station came at the spot.

5. The applicant has therefore, challenged registration of the First Information Report by way of filing the present application. This Court on 12th December, 2018 issued notice for final disposal. The non-applicant No.1 in pursuance of the notice filed reply and it is stated that the applicant threatened the non-applicant No.2 and instigated the members of the Gram

Panchayat against the non-applicant No.2 by giving wrong information. It is further stated that due to incitement of the applicant, the members mentioned in the First Information Report forcefully kept the non-applicant No.2 in a room of Gram Panchayat and closed the door from outside. It is further stated that the witnesses have seen the incident and have clearly stated about the role of the applicant in the incident. Therefore, it is stated that the application filed by the applicant deserves to be dismissed.

6. The non-applicant No.2, though engaged an Advocate, has not filed reply resisting the present application.

7. We have carefully considered the contents of the First Information Report. The accusation against the applicant is that the applicant threatened the non-applicant No.2 that he will see (“बघुन घेऊ”). Further allegation against the applicant is that he incited the members named in the First Information Report. It is pertinent to note that insofar as the allegations regarding wrongful confinement of the non-applicant No.2 there is no specific allegation that the applicant was involved in the wrongful confinement of the non-applicant No.2. Insofar as the offence alleged against the applicant under punishable under Section 143 of the Indian Penal Code is concerned, the allegation in the First Information Report and the statements recorded by the prosecution, which were produced before this Court during the course of hearing by the learned A.P.P., we do not find that there is any

material regarding common object of the applicant along with the persons named in the First Information Report. There is neither allegation nor there is any material brought on record by the prosecution that the assembly was unlawful when it was assembled. There is no allegation or material on record that the applicant subsequently became part of the unlawful assembly.

8. Insofar as the allegation regarding the offence punishable under Section 342 of the Indian Penal Code is concerned, there is no allegation that the applicant had played any role in wrongful restraint of the non-applicant No.2.

 Insofar as the offence punishable under Section 353 is concerned, there is no allegation against the applicant that the applicant assaulted or used criminal force to deter the non-applicant No.2 from discharge of her duty.

 Insofar as offences under Sections 504 and 506 of the Indian Penal Code are concerned, the allegations in the First Information Report even if accepted as correct does not fulfil the ingredients of the offences under Sections 504 and 506 of the Indian Penal Code.

9. On overall consideration of the allegations in the First Information Report, the reply filed by the non-applicant No.2 and the

material produced by the prosecution at the time of hearing, we are satisfied that the ingredients of the offences alleged against the applicant are not fulfilled. We are, therefore, satisfied that continuation of the proceedings against the applicant would amount to abuse of process of the Court.

10. We, therefore, pass the following order:

First Information Report bearing Crime No.112 of 2018 registered with non-applicant No.1-Police Station for the offences punishable under Sections 143, 149, 342, 353, 504 and 506 of the Indian Penal Code is quashed and set aside.

Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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