

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.68 OF 2022

Sopan Ramnath Kasar

Applicant

Versus

1. The State of Maharashtra

2. Balasaheb Soma Jadhav

Respondents

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Mr. N.L. Choudhari, Advocate for the applicant.

Mr. K.S. Patil, A.P.P. for respondent No. 1 – State.

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CORAM : **V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 31st March 2022.

ORDER (Per Sandipkumar C. More, J.) :

1. Heard.

2. The applicant in this application is seeking quashing of F.I.R. bearing Crime No. 127/2020 registered with Rahuri Police Station, District Ahmednagar for the offence punishable under Section 504 of the Indian Penal Code and under Sections 3 (1) (r) and 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. In the aforesaid F.I.R. lodged by the present respondent No.2, the allegations are made against the present applicant by respondent No. 2 about his wrongful appointment on the post of Registrar, Mahatma Phule Krishi Vidyapeeth, Rahuri. Respondent No. 2, as regards the said appointment, which according to him was wrongfully made, had also filed complaints to Government from time to time. He had also made complaint against the applicant before the Minister of Agriculture, and therefore, the applicant was knowing respondent No. 2. Further, the applicant was also aware of the caste of respondent No. 2. On 11.01.2020 at about 11.00 a.m. to 12.30 p.m. there was one function named "Magowa" at Krishi Vidyapeeth, Rahuri and the Agriculture and Revenue Minister was to attend the said function. Therefore, respondent No. 2 had gone to the guest house of said Krishi Vidyapeeth for giving representation to the said Minister as to how the applicant was appointed wrongly on the post of Registrar. However, when respondent No. 2 went to the said guest house, the applicant was already present there. Then on noticing presence of respondent No.2, the applicant approached him and angrily asked respondent No.2 as to why he made complaint against him. The applicant also asked respondent No. 2 to leave the said place. Further, the

applicant also insulted respondent No. 2 by referring his caste. As the applicant was intending to drive respondent No.2 from the said place, he shouted slogans against the applicant. At the time of that entire incident some journalists were also present there. It is also alleged in the F.I.R. that earlier also the applicant, while speaking to one journalist Ashish Dhage on phone, had insulted respondent No. 2 by referring his caste.

4. Learned Counsel for the applicant submits that the aforesaid crime has been registered against the applicant only to harass and blackmail him. It is, in fact, registered with malafide intention and on the basis of false, imaginary and frivolous contents. He further submits that respondent No.2 has misused the provisions of law only to level baseless charges against the applicant and that too belatedly, after about 47 days. Besides, the learned Counsel for the applicants also relied on the following judgments :

(i) Arun Ambadas Pawar vs. State of Maharashtra
MANU/MH/2485/2017

(ii) Hitesh Verma vs. State of Uttarakhand & another
AIR 2020 SC 5584

5. In the judgment delivered by this Court in the case of ***Arun Ambadas Pawar vs State of Maharashtra*** (supra), it has been observed as follows in para 16.

“16. Therefore, in the light of discussion in foregoing paragraphs, we are of the opinion that, considering the allegations against the Applicant it cannot be said that the Applicant intended or abetted or instigated the deceased Dnyanoba to commit suicide. Unless there is clear mes rea to commit an offence or active act or direct act which led the deceased to commit suicide seeing no option or the act intending to push the deceased into such a position, the trial against the Applicant under Section 306 of the Indian Penal Code, would be an abuse of process of law. Further it is to be noted that Dnyanoba committed suicide on 13th June, 2017 and the FIR has been lodged on 15th June, 2017. Thus, there is two days delay in lodging the FIR, therefore we find considerable force in the argument of learned counsel appearing for the Applicant that possibility of concoction and false implication cannot be ruled out”.

6. In the case of ***Hitesh Verma vs. The State of Uttarkhand*** (supra), the Hon'ble Supreme Court in para Nos.18, 19 and 23 has made the following observations.

“18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. *This Court in a judgment reported as Dr. Subhash Kashinath Mahajan v. State of Maharashtra & Anr. MANU/SC/0275/2018 : (2018) 6 SCC 4545 issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra & Ors. (2020) 4 SCC 761 reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under:*

“52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC.”

23. *this Court in a judgment reported as Ishwar Pratap Singh & Ors. v. State of Uttar Pradesh & Anr. MANU/SC/1658/2017 : (2018) 13 SCC 612 held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is*

required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under:

“9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed.”

7. In the light of the aforesaid judgments, the learned Counsel for the applicant is seeking quashing of the F.I.R. mainly on the ground of delay and on the ground of making malafide allegations with intent to misuse the provisions of

Atrocities Act.

8. In the case of *Arun Ambadas Pawar vs. The State of Maharashtra* (supra) this Court has observed that unless there was clear mens rea to commit the offence which led the deceased to commit suicide seeing no option or the act intending to push the deceased into such a position, the trial against the applicant under Section 306 of I.P.C. would be an abuse of process of law on account of delay in lodging F.I.R. which indicates possibility of false implication. Whereas in the case of *Hitesh Verma vs. The State of Uttarkhand* (supra) the Hon'ble Supreme Court has quashed the F.I.R. by observing that when there is misuse of the provisions of law, the F.I.R. can be quashed by invoking inherent powers under Section 482 of the Code of Criminal Procedure. However, in the case of State of *Haryana and others vs. Ch. Bhajan Lal and others* reported in *AIR 1992 SC 604*, the Hon'ble Supreme Court has referred certain guidelines as to in what cases and in what manner the powers of quashing the F.I.R. under Section 482 of Cr.P.C. can be exercised. We would like to reproduce those guidelines herein below :

“(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their

entirety do not prima facie constitute any offence or make out a case against the accused;

- (2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

9. On going through the aforesaid guidelines, it is cautioned by the Hon'ble Supreme Court that the F.I.R. can be quashed only in the circumstances where the allegations made in the F.I.R. or complaint, even if they are taken on their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. It is also observed that the F.I.R. can be quashed, if the allegations in the F.I.R. or complaint are so absurd or inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Further, it is observed that where a criminal proceeding is manifestly attended with mala fide and / or where the proceeding is maliciously instituted with ulterior motive for wreaking vengeance on the accused with a view to spite him due to private and personal grudge, the F.I.R. can be quashed.

10. In the instant case, respondent No. 2 – informant

is claiming that since due to earlier complaints made by him in respect of the alleged wrongful appointment of the applicant on the post of the Registrar of Mahatma Phule Krishi Vidyapeeth, Rahuri, the applicant was having grudge against him, and therefore, when he found respondent No. 2 at the guest house of the said Krishi Vidyapeeth, where the programme of Agriculture Minister was to be held, he insulted respondent No. 2 publically by referring his caste. The applicant is claiming that respondent No.2 has lodged false F.I.R. against him since despite earlier complaints, the applicant remained on the post of Registrar. Admittedly, certain complaints are there on record made by respondent No. 2 against the applicant earlier to lodging of the present F.I.R. and it is also there on record that despite those complaints the applicant has been retained on the post of Registrar.

11. In the recent judgment in the case of ***State of Odisha vs. Pratima Mohanti Etc. in Criminal Appeal No. 1455-1456 of 2021***, the Hon'ble Supreme Court has held that while exercising powers under Section 482 of Cr.P.C. for quashing the F.I.R. and criminal proceedings, the High Court is not supposed to conduct a mini trial by assessing the

material on record in detail. Further, it has also been observed that the Court cannot look into the truthfulness of the allegations. Further, as mentioned above, the Hon'ble Supreme Court in the case of ***State of Haryana vs. Ch. Bhajan Lal*** (supra) has also observed that when there are clear-cut allegations in the F.I.R., then the same cannot be quashed. In para 109 of the said judgment the Hon'ble Supreme Court has given note of caution and stated that power of quashing of criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. We would like to reproduce the said observation as below :

“109. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise or the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice”.

12. Further, it is also held by the Supreme Court in the same judgment that when the allegations are direct, then the malafides are not supposed to be looked into.

13. In the instant case, there are direct allegations against the applicant in the F.I.R. itself, and therefore, in the light of the observations in the above-cited cases, we are not supposed to discuss it's truthfulness by holding a mini trial. Therefore, in the light of the aforesaid discussion and observations, we are not inclined to quash the F.I.R. as claimed by the applicant. Hence, we pass the following order.

ORDER

Criminal Application is hereby dismissed and accordingly stands disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)