

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.322 OF 2021

Atul s/o Rajendra Kumbhar @ Jagdale
Age: 21 years, Occu.: Study,
R/o. Rahul Nagar Saldarwadi Dondaicha,
Tq. Shindkheda, Dist. Dhule

.. Applicant

Versus

1. The State of Maharashtra
Through P.I.
Dondaicha Police Station,
Tal. Shindkheda, Dist. Dhule.

2. Praful Walchanad Dugad
Age: 40 years, Occu.: Service,
R/o. Jivinlala Compound,
Dondaicha, Tq. Shindkheda,
Dist. Dhule

.. Respondents

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Mr. M. R. Wagh, Advocate for applicant.
Mr. M. M. Nerlikar, APP for respondent No.1 - State.
Ms. Neha B. Kamble, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : DECEMBER 07, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. By invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, the applicant, who is 21 years old student, has prayed for quashing of FIR vide Crime No.250 of 2020 registered with Dondaicha Police Station, Dist. Dhule for the offences

punishable under Sections 353, 143, 147, 506, 427, 188, 269, 270 of Indian Penal Code (for short "IPC"), under Sections 2, 3, 4 of Epidemic Disease Act, under Section 11 of Maharashtra Covid-19 Regulation Act, 2020 and under Section 135 of the Maharashtra Police Act.

2. Heard learned Advocate Mr. M. R. Wagh for the applicant, learned APP Mr. M. M. Nerlikar for respondent No.1 - State and learned Advocate Ms. Neha B. Kamble for respondent No.2.

3. Perusal of the FIR lodged by respondent No.2 would show that respondent No.2 was serving as the Medical Officer and was on Covid duty in Covid Health Centre at Dondaicha. Patient by name Rajendra Kumbhar i.e. father of the present applicant was admitted in the said hospital in critical condition, as he had consumed pesticides with alcohol. According to the informant, he had applied saline and injection. The informant was explaining the applicant, who had taken his father to the hospital, as to how the poisonous substance can be taken out of the stomach i.e. by way of putting tube. When the said tube was inserted from his nose, he vomited and, therefore, when again the same act was repeated by the informant again the patient vomited. The patient was in pain and, therefore, when once again the tube was tried to be inserted, at that time, the patient resisted and, therefore, the informant directed further treatment to the nurse on duty and went to explain the situation to the applicant and other

relatives. It was told that they should not gather in violation of covid protocol. At that time, the applicant started giving threat to the informant. He abused and behaved arrogantly. The informant had called the ambulance and asked the patient to be taken to Rural Hospital, Shindkheda or A.C.P.M. Medical College, Dhule. He went to write reference letter and other documents, at that time, one Akash Daga Koli as well as other 8 to 10 persons rushed towards the informant and by giving threat to him told that they will not take the patient anywhere and he should not sign the reference card. Then the applicant also went rushing towards the person of the informant, behaved arrogantly and then damaged the cabin glass. A chaotic situation was created in the hospital.

4. Affidavit-in-reply has been filed on behalf of respondent No.2 resisting the application.

5. It will not be out of place to mention here that this Court when the matter was on board on 08.07.2022 taken note of that. It appears that the applicant behaved under the stress because of his father's health condition and, therefore, lenient approach is required to be taken. Applicant then showed readiness to tender apology and to offer compensation for the mental trauma suffered by respondent No.2. Notice was then issued to respondent No.2 and it was left to respondent No.2 whether to accept the apology and compensation offered by the applicant. In response to the same, in the affidavit, it

has been stated that even though several allegations made by him against the applicant are true and correct, yet he do not wish to proceed with the actions to be taken against the applicant considering his age and his future academic prospects. However, he put a condition that the applicant should tender written apology and undertake not to do such antisocial act and damage the public property or disrespect any profession. In view of the same, the written apology has been tendered by the applicant, which is taken on record. He has clearly stated that he is tendering apology to the Court as well as respondent No.2 for his wrong behaviour in the hospital on 24.08.2020. He has also undertaken that he will never behave in such manner again with anybody and would respect all the citizens as well as government servants. He has stated that he has learnt a lesson because of the said episode.

6. In view of all these happenings, taking into consideration the age of the applicant, his future prospects, so also taking into consideration the good marks he had obtained in the academic year, also he appears to be good in extra curricular activities, he is also attached to National Digital Literacy Mission, Good at drawing, also attached to scouts, we take this as an exceptional case to allow the compromise. Though the said FIR was lodged by respondent No.2 in his capacity as a government servant and also for the damage to the public property, we can imagine that the applicant, who is aged 21,

was required to attend the hospital when his father had consumed pesticides along with alcohol and his situation was critical. Every relative of the patient expects that the doctor should attend the said patient immediately and should rather do the magic and save the life of such patient. On all the occasions there may not be success to the doctor, but definitely there is presumption that the doctors would do best to save the life of the patient. Many times the relatives of the patient loose their control/patience, which results in attack on the medical professionals, though the government has assured sufficient security also. There is a separate enactment to that effect, yet such incidents are happening. Fortunately, in this case, respondent No.2 has not received any injury to his body. Now, in his written apology, the applicant has stated that he would respect the profession of the informant and he has tendered apology to the informant for the wrong behaviour in the hospital. We are accepting the same. Under such circumstance, the application deserves to be allowed. Hence, the following order :-

ORDER

- i) Application stands allowed.
- ii) The FIR bearing Crime No.250 of 2020 dated 25.08.2020 registered with Dondaicha Police Station, Dist. Dhule for the offences punishable under Sections 353, 143, 147, 506, 427, 188, 269, 270 of IPC, under

Sections 2, 3, 4 of Epidemic Disease Act, under Section 11 of Maharashtra Covid-19 Regulation Act, 2020 and under Section 135 of the Maharashtra Police Act, stand quashed and set aside as against the present applicant.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm