

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1546 OF 2022

POOJA W/O SUBODH MANDAGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. S. N. Rodge
APP for Respondent no.1-State : Mr. M. M. Nerlikar

....

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

DATED : 02/05/2022

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

1. Heard the learned counsel for the applicant. The present application is filed by the applicant, who is a daughter-in-law of original complainant i.e. respondent no.2, seeking quashing of FIR bearing No.611 of 2021 dated 23/12/2021, registered with Zillha Peth Police Station, Jalgaon, for the offence punishable under Sections 452, 323, 504 and 506 of IPC.

2. On perusal of the aforesaid FIR, it reveals that respondent no.2 informant has made allegations against the applicant that on 21/12/2021 when she was present in her house with her husband, at about 8.00 to 8.30 p.m., the applicant suddenly entered in to

their house unauthorizely and started beating the informant and her husband with fist and slaps. The applicant allegedly abused them and also threatened to take back the divorce petition filed by Subodh i.e. their son against the applicant.

3. The learned counsel for the applicant submits that no such incident as alleged in the FIR had taken place. On the contrary, due to matrimonial discord the applicant was residing separately from her husband and also the respondent no.2-informant. In fact, the applicant had gone to the house of the informant for bringing her educational documents, but respondent no.2-informant and her husband did not allow to enter the house and beat her. The learned counsel for the applicant further submits that the informant has in fact lodged false FIR against the applicant, which needs to be quashed.

4. We have carefully gone through the contents of FIR and also heard submissions of the learned counsel for the applicant. On going through the aforesaid FIR there appears direct allegations against the applicant. Moreover, it appears that a dispute is going on between the applicant and her husband Subodh, who is son of the informant and therefore, the applicant is residing separately.

Though the learned counsel for the applicant submitted that the informant and her husband had in fact beaten the applicant, but such defence cannot be considered at the stage of quashing of the FIR by invoking powers under Section 482 of Cr.PC. The applicant has to establish the same during the course of trial. Further, as per the ratio laid down by the Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Bhajanlal and others, reported in AIR 1992 SC 604***, the powers under section 482 of Cr.PC. can be exercised only if there is a possibility of abuse of process of law, if the trial against accused persons is allowed to be continued. Moreover, it has been also observed by the Hon'ble Supreme Court further that the court cannot verify the allegations in the First Information Report being falsely made. It has been further settled in the aforesaid case that the powers under Section 482 of Cr.P.C. should be exercised sparingly and that too in the rarest of rare cases. Moreover, those powers can be exercised 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. In the instant case, there are direct allegations against the applicant and as per the ratio laid down by the Hon'ble Supreme Court in the case of ***State of Odisha vs. Pratima Mohanty ETC in***

Criminal Appeal Nos. 1455-1456 of 2021 court is not supposed to conduct a mini trial by going into the merits of allegations in the First Information Report. Therefore, considering all these facts and the ratio laid down by the Hon'ble Supreme Court in the above cited cases, the applicant has not made out a case even for the issuance of notice and therefore, the present application needs to be rejected summarily. Hence, we pass following order.

O R D E R

Criminal application is hereby rejected
and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

VS Maind / -