

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

CRIMINAL APPLICATION NO. 1353 OF 2021

Rajkumar s/o Sopanrao Suryawanshi,
Age : 35 years, Occu. Social Work,
R/o. Ambedkar Nagar, Purna, Tq. Purna,
Dist. Parbhani.

...Applicant

Versus

1. The State of Maharashtra
2. Usha w/o Bharat Jondhale,
Age : 35 years, Occu. Labour,
R/o. Ambedkar Nagar, Purna,
Tq. Purna, Dist. Parbhani.

...Respondents

.....
Mr. P. N. Kalani, Advocate for the applicant
Mr. R. V. Dasalkar, APP for respondent/State
.....

CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.

DATE : SEPTEMBER 08, 2022

ORAL ORDER [PER RAJESH S. PATIL, J.] : -

1] This application is filed under Section 482 of the Code of Criminal Procedure for quashing the Charge Sheet bearing R.C.C.No.272 of 2021 pending before the J.M.F.C. Purna District Parbhani arising out of the First Information Report vide C.R. No.181/2021 dated 16.05.2021 registered at Purna Police Station, Parbhani for the offence punishable under Sections 354, 504, 506 of the Indian Penal Code.

FACTS : -

2] The respondent no. 2 / Informant has lodged First Information Report. It is reported in the F.I.R. that the Respondent no.2 / Informant lives
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with her husband and three children at Ambedkar Nagar, Purna. On 16.05.2021 at about 06:00 p.m., when the respondent no. 2 - informant was alone in the house, the applicant had trespassed in the house of respondent no. 2 and said as to why she has built house on the open plot as it belongs to him and further abused and threatened of life. Respondent no. 2 has further stated in the FIR that the applicant had caught hold of her hand and asked her to get out of the house, or else he would beat her in the same style as he had beaten one Parubai. Thereafter, the sister-in-law of respondent no. 2 – informant came there and said the applicant as to why he is troubling the respondent no. 2. Thereupon, applicant also threatened said Rekha of killing her husband. Therefore, the respondent no. 2 has lodged report with the Purna Police Station for abusing and outraging her modesty.

3] The applicant who is the Accused in the F.I.R. has stated in the present Criminal Application that the FIR in question is the abuse of process of law as he has not committed any such offence as mentioned in the present FIR. He further submitted that the respondent no.2 and her family members are keeping evil eye over the said property and just to take revenge from the applicant, the false, baseless and bogus cases were filed by Respondent no.2 and her family. The present F.I.R. is the outcome of said enmity.

SUBMISSIONS : -

4] Heard Mr. P. N. Kalani, learned counsel for the applicant and Mr. R. V. Dasalkar, learned APP for State.

5] Learned advocate for the applicant submit that the applicant has not committed the offence as mentioned in the FIR. He further submitted that perusal of the FIR clearly shows that there is no any eye witness to the incident and the contents of FIR are imaginary and concocted story created by the respondent no. 2. The FIR filed by respondent no. 2 is nothing but counter blast to the FIR filed by applicant against the family members of respondent no. 2.

6] Learned advocate for the applicant further submitted that there is dispute over the municipal house between the respondent no. 2 and the applicant and the applicant and his mother have given number of applications to the Municipal Council in this regard. He also submitted that the friend of respondent no. 2 has also filed FIR against the applicant at the instance of respondent no. 2, when there was no involvement of applicant in that matter. The applicant is the innocent person. The FIR is nothing but based upon fishy and bald allegations. The Applicant has also lodged FIR on the same day against the brother-in-laws of the Informant herein. The continuance of criminal proceedings against the applicant would amount to abuse of process of law and, therefore, he prayed that the application be allowed and the FIR in question be quashed against the applicant.

7] Learned APP Mr. R. V. Dasalkar for respondent no.1/State has strongly opposed the application stating that there are specific allegations against the applicant. It is submitted that the Applicant addresses himself as a Social Worker. It is further submitted that looking to the antecedents of the applicant having as many as 3 cases registered against him with Purna Police Station, it would not be just and proper to grant him relief, as, in such case he would definitely threaten and pressurize the victim. Moreover, the F.I.R. bearing crime no.181/2021 was lodged on 16/5/2021 and the present criminal application for quashing the F.I.R. was filed immediately on 22/6/2021, thereby not allowing the police authorities to investigate the crime.

ANALYSIS : -

8] For quashing the criminal proceedings under Section 482 of the Cr.P.C., we have to see, whether the allegations in the complaint and FIR *prima facie* establish the ingredients of the offences alleged.

9] Perusal of the FIR would show that there are specific allegations against the applicant, that on 16/5/2021 the Applicant had trespassed in her house when she was alone, and abused and threaten her to sgp

leave the house, and further caught hold of her both hands and pulled her. This allegations in the FIR attracts offences under Section 354, 504 and 506 of the I.P.C. The statements recorded of three persons during the investigation which are filed with Charge Sheet also prima facie point finger towards the involvement of the applicant in committing the alleged offence of outraging modesty of the respondent no. 2.

The Applicant is addressing himself in the cause title as a social worker and in the Application is claiming to be owner of the land on which the Informant has build house illegally without permission. This court under 482 of the Cr.P.C. can't go into the disputed facts about ownership and legality of construction of the house by Informant. Going through the copies of the FIRs enclosed to the present Criminal Application, registered against the applicant by other persons from the same vicinity would show that he has criminal antecedents and, therefore, *prima facie* his involvement in the offence in question cannot be ruled out. Furthermore, the FIR bearing crime no.181/2021 was lodged on 16/5/2021 and the present criminal application for quashing the FIR was filed immediately on 22/6/2021, thereby not allowing the police authorities to investigate the crime. No case is made out to grant relief in favour of the applicant. Hence, the following order.

ORDER

- [i] Criminal Application stands rejected.
- [ii] Needless to state, any observations made herein are only for the purposes of deciding the present application only and would have no bearing on the final adjudication of the proceedings.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE