

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

39 CRIMINAL APPLICATION NO.3958 OF 2019

ANANTRAO S/O. BABRUVAN PAYAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. More P. P.
APP for Respondent No.1-State: Mr. K.S. Patil
Advocate for Respondent No.2 : Ms. Sushama T. Jadhav h/f
Mr. P. D. Suryawanshi

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**CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.
DATED : 18th JULY 2022**

PER COURT:-

1. This is an application for quashing of the charge sheet which is result of investigation into crime No. 157 of 2020 registered at Yusuf Wadgaon police station on 14.10.2019 under Sections 498-A, 323, 504, 506 r/w 34 of I.P.C. The F.I.R. is lodged by respondent No.2 Varsha w/o Sanjay Payal. She was married to Sanjay Payal. The applicant No.1 is the father, applicant No.2 is the mother and applicant Nos. 3 and 4 are the brothers of Sanjay Payal. The applicant No.5 is the wife of applicant No.3.

2. Heard.

3. The F.I.R. is lodged by respondent No.2 on 14.10.2019. She has stated that she was married with Sanjay Payal on 24.11.2009. At that time, her parents had spent Rs.65,000/- and had given two

tola gold. The informant had a son and a daughter. Her husband Sanjay died on 24.5.2018. Since then, all the applicants were causing physical and mental harassment to her. They told her that they wanted to buy a new house and therefore they were demanding Rs.2,00,000/- from her and on that ground she was being harassed. Her father tried to convince the mother-in-law and the father-in-law of the informant but there was no change in their behaviour. On 5.10.2018, the applicants threw her outside her house. Thereafter the informant had gone to Women's Grievance Redressal Center but there was no progress. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicants submitted that the applicants alongwith respondent No.2 had filed an application before the Civil Judge Senior Division at Latur for heirship certificate. It was mentioned in the said application, which was filed in September 2018, that though the property stood in the name of deceased husband of the informant, it was a joint family property. Learned counsel submitted that the said application was signed by the informant on her own behalf as well as on behalf of her minor children. He submitted that when this application was pending, paper publication was made on 16.10.2018. On the very day the informant's father filed an application in the same proceeding of heirship certificate seeking rejection of that application. It was mentioned in the application that respondent No.2 had no support and that the application for heirship certificate was false. According

to the learned counsel, this clearly indicates that because of the interference by the father of respondent No.2, she had approached the Women's Grievance Redressal Center and on two occasions she made her grievance but there was no reference to the harassment caused to her. According to learned counsel for the applicants, therefore, the allegations in the F.I.R. are not true. They are made with *malafide* intention at the behest of the informant's father. There is no mention of the allegations referred to in the F.I.R. in the earlier application given to that Forum.

5. Learned counsel for respondent No.2 submitted that the averments are clearly made in the F.I.R. This is not the case wherein the court should interfere by quashing the complaint. Learned A.P.P. also supported the submissions of learned counsel for respondent No.2.

6. We have considered the submissions and we have also perused the charge sheet, which contains the statements of father of the informant viz. Haribhau, mother Vidyasagar, cousin Prakash and sister Jyotsna. All these statements are similar to the statement of the first informant. The parents of the informant had approached the applicants and tried to convince them to treat the informant properly, but it was of no use.

7. At this stage, it appears that after death of her husband, the

informant was harassed by all these applicants on the ground of non-fulfillment of the demand of Rs.2,00,000/-. The proceeding of heirship certificate is still pending. Therefore, it would not be proper to make any comment on that. The informant had not elaborated on her harassment in her earlier application but at that stage, the purpose was to see whether the settlement is possible. However, in the F.I.R., there are concrete allegations made by the first informant. The ingredients of the offences are clearly made out. At this stage, it is not possible to record a finding that the F.I.R. is lodged with *malafide* intention or that allegations are false. It is a matter of trial for which elaborate evidence will have to be led. In view of this, we are not inclined to allow this application. The application is rejected.

(BHARAT P. DESHPANDE, J.)

(SARANG V. KOTWAL, J.)

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