

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.923 OF 2011
(under Section 482 of Cr.P.C)

Nitin Shankar Bhadange

...Applicant

Versus

The State of Maharashtra and
Anr.

...Respondents

...

Mr. Pandit Kasar for the Applicant.

Mr. S.V. Saste, APP for Respondent-State.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATE : 4th JANUARY, 2022.

P.C. :

1. Heard learned counsel for the Applicant. The application was circulated before this Court claiming an extreme urgency. The learned counsel in support for claiming an extreme urgency in the matter invited our attention to document placed on record at page 16 of 12th March 2021. The caption of the documents reads 'Provisional Appointment Letter'. The counsel for the Applicant submitted that the Applicant is selected as a recruit in the Armed Forces i.e. under

the Directorate General, Asam Rifles and the lodgment of the report against the Applicant firstly, and subsequently the proceedings in pursuant to the FIR against the Applicant is nothing but an abuse of process of law and with such an unsustainable material asking the Applicant to face the trial or to undergo ordeal of a criminal proceedings is not only causing serious prejudice to the Applicant but may also result in loss of an opportunity for the Applicant making his carrier and settle in life.

2. On the backdrop of this submissions of the counsel we have gone through the material placed on record. Though the Application refers to Respondent i.e. first informant is made a party to the application, as investigating agency was set in motion by lodgment of report and by applying of exercise of investigation filed charge sheet before the competent court there cannot be any other material apart from the charge in support of Respondent No.2.

3. Considering this fact and considering the additional factum that by issuing notice to Respondent at this stage, calling upon Respondent No.2 before this Court would require at least time of

three weeks on one hand and on the other hand the Applicant, who is already selected as a recruit by undergoing due procedure if fails to report the competent authority within stipulated period, would lose a life time opportunity and as the law is well settled in view of the judgments of the Hon'ble Apex Court as well as this Court, particularly the guidelines observed by the Hon'ble the Apex Court often quoted judgment of *State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors. 1992 AIR 604* would apply to the present application, the application is taken up for hearing by us calling upon the learned APP to submit his say.

4. The counsel for the Applicant firstly invited our attention to the application submitted by the counseling center and the same was treated as FIR. The perusal of the said application shows that the informant states in the application that her marriage with the accused No.1-Bharat Shankar Bhadange was solemnised on 17/05/2017 at Taluka-Yeola as per the rituals and customs. It is stated that the father of the informant gave certain cash amount and ornaments and household articles to in-laws. It is then stated in the application that the father of the informant borne the expenses for

the marriage to the tune of Rs.15,00,000/-. Then it is stated that the accused No.1-husband of the informant insisted upon the father of the informant to purchase a four wheeler and the aunt of the informant made payment towards the insurance claim. It is stated in the report that as the accused No.1 i.e. the husband of the first informant was having certain landed property, he obtained loan from one HDFC Bank, Sangamner to the tune of Rs.7,43,000/- for purchase of the said vehicle and the father of the first informant is making necessary payment of the installments against the loan amount. There is a general statement that while the first informant was carrying her matrimonial life, she was subjected to ill-treatment. Then it is stated that while the first informant was carrying pregnancy, neither proper care was taken nor any medical assistance was provided to her. The report then concludes with a general statement that the first informant was subjected to physical and mental harassment and ill-treatment at the hands of her in-laws.

5. Learned APP opposes the application and submits that the investigation was carried out by the investigating agency and in the statements, there are allegations against the Applicant.

6. The entire complaint makes certain general allegations and in the text of the complaint, the name of the present Applicant is also not referred to and only at the concluding part of the report a general statement is made against all the in-laws including the Applicant as *“maze pati, sasu sasare va dir’*. As stated above, by lodgment of the report investigating agency was set in motion and collected further evidence including recording of statement of material witnesses. Perusal of the statements of father of the first informant, mother of the first informant, aunt of the first informant show that these statements are general and identical in nature. Reference to the Applicant is only by way of a general statement as the in-laws. There is no specific averments in respect of the Applicant of playing any active role. In so far as the ill-treatment is concerned, it is only by way of a general statement that the first informant was subjected to abuses, demand of money and ill-treatment.

7. Considering all these material we are of the opinion that the prosecution would hardly establish any case against the present Applicant in the proceedings pursuant to the FIR and permitting the

Applicant to face criminal proceedings with such insufficient and untenable material would be certainly an abuse of process of law. As we are of the opinion that the Applicant has made out a case for allowing the application, the FIR lodged against the Applicant and the proceedings initiated by Respondents in pursuant to the FIR are quashed and set aside qua the Applicant.

8. The application stands disposed of.

9. Needless to state that the proceedings against the other accused may go on as this Court had no occasion to make observation against the other accused as they are not before this Court.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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