

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1046 OF 2021**

Mr. Rohan Ajit Shejwadkar

....Applicant

Versus

The State of Maharashtra and anr.

....Respondents

Mr. Siddhesh R. Samel, advocate for the applicant.

Mr. P. K. Sanghrajka, advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 18th FEBRUARY, 2022.

P.C. :

1. Heard learned counsel and learned APP appearing for the respective parties.

2. The applicant is before this Court seeking quashment of the FIR No.78 of 2020 registered with Chembur Police Station on 3rd March, 2020 at the instance of respondent No.2 for the offences punishable under Sections 498A, 323, 504, 143, 147 and 149 of the Indian Penal Code, 1860 as well as proceedings bearing criminal case No.1926/PW/2021 arising out of the said FIR. In this criminal case, while filing charge-sheet, offences under Sections 452 and 354 of the Indian Penal Code, 1860, were added.

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3. Learned counsel for the applicant submitted that the applicant is not in any way related to respondent No.2 so as to term him as matrimonial relative and he is a neighbour who resides in the opposite building as that of respondent No.2. Learned counsel for the applicant invited our attention to the copy of the report placed on record at page 19 and submitted that in the entire report there is not even a reference to the applicant and as the applicant along with his parents ran on the spot of incident on hearing hue and cry, he was added as an accused. Learned counsel for the applicant then submitted that even in the material collected by the investigating agency in the form of recording statements of the witnesses, the witnesses have stated that the applicant was merely present on the spot of the incident and no overt act is alleged against the applicant. Learned counsel for the applicant further submitted that apart from this material which supports the applicant's prayer for quashment of the proceedings, the affidavit filed at the instance of respondent No.2 adds weightage to the applicant's prayer for quashment of the FIR and the proceedings arising therefrom. Perusal of the affidavit filed in this Court on 18th February, 2022, shows that respondent No.2 has made a categorical statement in the affidavit that the applicant is implicated as an accused in the matter solely on the fact that he was present at the time and place of the incident. It is further stated in the affidavit that respondent No.2 was informed by her parents that the applicant was present during altercation only because he had followed his mother – Mrs. Ajit

Shejwadkar and his wife – Jayashree Rohan Shejwadkar as they had come to her place in course of altercation. Respondent No.2 further stated that naming of the applicant in the supplementary statement dated 13th March, 2020 was an act of sheer misunderstanding. Respondent No.2 further stated that in view of the clarification from her parents, she has decided not to pursue criminal proceedings qua the applicant - Rohan Ajit Shejwadkar in criminal case No.1926 of 2021(arising out of the FIR No.78 of 2020 registered at Chembur Police Station) pending before learned Metropolitan Magistrate, 11th Court at Kurla, Mumbai. Respondent No.2, then, reiterated her explicit no objection in paragraph 5 of the affidavit dated 18th February, 2022, which reads thus.

“5. I say that, in view of the above mentioned facts and circumstances, I hereby explicitly record my no objection to quash the C.C no. 1926 of 2021 pending before the Ld. Metropolitan Magistrate (11h court) at Kurla, Mumbai arising out of FIR no. 78 of 2020 registered with the Chembur police station for offences u/sec. 452, 354, 498 (a), 323, 504, 143, 147, 149 of the Indian Penal Code against the present Applicant.”

4 Respondent No.2 is personally present before this Court. On being queried, she reiterated whatever that has been stated in her affidavit and further gave her no objection for quashing the subject FIR and the proceedings arising out therefrom.

5. Having considered the above facts and having perused the copies of the statements which forms the part of charge-sheet, which is placed on record at Exhibit B, page 24, we are of the opinion that learned counsel for the applicant has made out a case for quashing the FIR and the proceedings arising therefrom. Accordingly, FIR No.78 of 2020 registered with Chembur Police Station on 3rd March, 2020 at the instance of respondent No.2 for the offences punishable under Sections 452, 354, 498A, 323, 504, 143, 147 and 149 of the Indian Penal Code, 1860 as well as criminal proceedings bearing criminal case No.1926/PW/2021 pending before the learned Metropolitan Magistrate, 11th Court at Kurla, Mumbai arising out of the said FIR are quashed and set-aside qua the applicant – Rohan Ajit Shejwadkar. The application stands disposed of.

6. At the outset, learned counsel appearing for respondent No.2 submitted that though he represents respondent No.2, vakalatnama could not be filed in this Court and within two weeks from today, vakalatnama would be placed on record of the matter. The statement is accepted.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)