

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.839 OF 2022

Nakija Bano Nasarulla Shah
Aged 45 years, Occ. Teacher,
R/o. Jam Jam Colony,
Amravati, Tq. and Dist. Amravati

...APPLICANT

VERSUS

1. The State of Maharashtra,
through Police Station Gadge Nagar,
Amravati, Tq. and Dist. Amravati
2. Sadik Ahmed Abdul Raffiq
Aged about 33 years,
R/o Saur, Tq. Bhatkuli,
District Amravati
Mob. No.9623934535 (As per
First Information Report)

...NON-APPLICANTS

Shri P.R. Agrawal, Advocate for the applicants.
Shri S.S. Doifode, Additional Public Prosecutor for non-applicant
No.1/State.
Shri S.D. Chande, Advocate for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 19, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By invoking jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.' for short) the applicant seeking quashment of First Information Report (hereinafter referred to as 'the F.I.R.' for short) vide Crime No.2792/2021 for the offences punishable under Sections 420, 468, 469 and 471 of the Indian Penal Code (hereinafter referred to as 'the Code' for short) registered with Gadge Nagar police Station, Amravati, District Amravati.

3. The applicant is serving as a Primary Teacher with Zilla Parishad, Amravati since 2002. The applicant who is discharging her duties as a Primary Teacher at Zilla Parishad Primary Urdu School, Kumagadh, Tq. Bhatkuli, District Amravati one Sadik Ahmed Abdul Raffiq lodged the report against the applicant and her husband on an allegation that the co-accused namely Nasrullah Shah Badu Shah promised him to provide a job at Manav Vikas Bahuuddeshiya Prasarak Mandal and obtained Rs.20,00,000/- (Rs. Twenty lacs) from him.

4. It is further alleged that co-accused Nasrullah Shah Badu Shah represented that he had very close relations with the President and Secretary of the said Manav Vikas Bahuuddeshiya Prasarak Mandal and he would provide a job if the informant pays Rs.7,00,000/- (Rs. Seven lacs) each to them. Therefore, the informant had paid Rs.14,00,000/-

(Rs. Fourteen lacs), thereafter the informant had received the appointment letter as a Care Taker. Again the co-accused demanded from him Rs.3,00,000/- (Rs. Three lacs) for a better post. Therefore, he handed over Rs.6,00,000/- to the present applicant at her house. On the basis of said report, police have registered the offence against the Nasrullah Shah Badu Shah who is the husband of the applicant who was arrested on 28/11/2021 and the present applicant. It is the contention of the applicant that she is not at all concerned with the alleged offence. Merely because she is the wife of Nasrullah Shah Badu Shah she is implicated in the alleged offence. The recitals of the FIR nowhere shows that she has demanded some amount and on perusal of the said demand the amount was handed over to her. Only allegation against her is that the informant had handed over the said amount to her.

5. Heard both the sides.

6. It is submitted by Shri P.R. Agrawal, learned Counsel for the applicant that only allegation against the present applicant is that she accepted the amount. The FIR is silent regarding the demand by the present applicant whereas it is submitted by Shri S.S. Doifode, learned Additional Public Prosecutor for non-applicant No.1 and Shri S.D. Chande, learned Counsel for non-applicant No.2 that in furtherance of common intention present applicant and co-accused promised for the job

and accepted the amount. Thus, the *prima facie* case is made out and hence the application deserves to be rejected.

7. Considering the allegation in the FIR, the allegation against co-accused are specific. However, only allegation against the present applicant is that as per the demand by co-accused, informant handed over an amount of Rs.6,00,000/- (Rs. Six lacs) to the present applicant who is the wife of the co-accused at her residence. In so far as the present applicant is concerned no role assigned to her that she demanded any amount or she is aware about the said demand made by her husband who is the co-accused. The entire FIR is silent regarding common intention shared by the present applicant with the co-accused. Even if the allegation is accepted as it is at its face value no offence is made out against the present applicant. The FIR is silent regarding the knowledge of the present applicant regarding the demand made by her husband. Thus, in the factual matrix, we are not in a position to appreciate how the role assigned to the present applicant shall ensure that the offence of 420, 468, 469 and 471 of the Code is attracted against her. Even if the recitals of the FIR are taken as it is then also no offence is made out against the present applicant.

8. Having so observed, we have no hesitation in allowing the application in so far as present applicant is concerned. In the result, we

proceed to pass the following order :

(a) The criminal application is allowed.

(b) The First Information Report vide Crime No.2792/2021 for the offences punishable under Sections 420, 468, 469 and 471 of the Indian Penal Code registered with Gadge Nagar police Station, Amravati, District Amravati against the applicant is quashed and set aside.

9. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*