

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

CRIMINAL APPLICATION (APL) NO.485 OF 2019

Gayatri @ Sarla Atul Lavhale
Aged about 35 years,
Occupation–Service,
R/o. Near Sudha Classes,
Pannalal Nagar,
Amravati, District Amravati

...APPLICANT

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Shirkhed,
Amravati (Rural),
Tah. & District Amravati

2. Mahesh Vitthalrao Hiwase
Aged about 35 years,
Occupation – Agriculturist,
R/o. Kodvahir, Tah. Morshi,
Shirkhed, District Amravati

...NON-APPLICANTS

Shri Prashant Borkar, Advocate h/f Shri R.D. Wakode,
Advocate for the applicant.
Shri S.S. Doifode, Additional Public Prosecutor for
non-applicant No.1/State.
None for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 10, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

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

2. By preferring this application, the applicant prayed for quashing of First Information Report vide Crime No.101/2018 registered at police station Shirkhed, Amravati (Rural), District Amravati for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the Code' for short) against the applicant and other co-accused.

3. The offence is registered on the basis of report lodged by non-applicant No.2 – Mahesh Vitthalrao Hiwase on an allegation that the applicant is the wife of Atul Sahebrao Lavhale who is the resident of Amravati. The father-in-law of the present applicant namely Sahebrao @ Omkar Govindrao Lavhale is the owner of agricultural field at Dhangarkhed and also running a Nursery duly registered with the Government of Maharashtra vide registration No.32. The husband of the applicant namely Atul Sahebrao Lavhale was cultivating the agricultural field of his family and also running the business of turmeric crop. The offence was registered against Atul Sahebrao Lavhale and other co-accused on the allegation that Atul Sahebrao Lavhale had approached

to the non-applicant No.2 and other cultivators with the proposal of purchase of their turmeric crop on the price higher than the market price. It was represented to non-applicant No.2 and other agriculturist that after processing turmeric he will export the same and thereby would earn huge profits. Thus, by misrepresenting the non-applicant No.2 said Atul Sahebrao Lavhale purchased turmeric from the cultivators, however, did not pay the sale price of turmeric to them and, therefore, non-applicant No.2 had lodged the report at Shirkhed, Amravati (Rural) police station on 19/04/2018 vide Crime No.101/2018 under Sections 406 and 420 read with Section 34 of the Code.

4. It is the contention of the applicant that there is no allegation against her in the First Information Report. She is implicated only because she is the wife of Atul Sahebrao Lavhale. She is not at all concerned with the business of her husband or there is no allegation against her that she along with the other co-accused with common intention made any promise to the non-applicant No.2. Only allegation against her is that she is the wife of the co-accused Atul Sahebrao Lavhale.

5. Heard both the sides and perused the record.

6. The applicant is the wife of Atul Sahebrao Lavhale. As no allegations are made against her in the F.I.R., she approached to this

Court by invoking the jurisdiction under Section 482 of the Cr.P.C. for quashing of the F.I.R. We have perused the F.I.R. and the report filed by the non-applicant No.2 at Shirkhed, Amravati (Rural) police station. The entire allegation in the F.I.R. is made against Atul Sahebrao @ Omkarrao Lavhale alleging that he represented the agriculturist and non-applicant No.2 that he would purchase the turmeric crop from them and by processing the turmeric he would export the same and thereby they would earn huge profits accordingly said Atul Sahebrao Lavhale purchased turmeric from the cultivators, however, did not pay the sale price. On perusal of the F.I.R. it appears that entire allegation is against the Atul Sahebrao Lavhale who is the husband of the present applicant. No allegations are made against the present applicant. It is apparent that she is implicated as an accused only because she is the wife of co-accused Atul Sahebrao Lavhale. As no allegations are made against the present applicant, no role is attributed to her. Entire allegations are against the co-accused viz her husband. In such circumstances, allowing the proceeding against her to continue will be abuse of process of law. As no allegations are against the present applicant, the power under Section 482 of the Cr.P.C. needs to be used and proceeding against her needs to be quashed and set aside.

7. In the result, we proceed to pass the following order:

(a) The criminal application is allowed.

(b) The First Information Report vide Crime No.101/2018 registered against the applicant at Shirkhed, Amravati (Rural) Police Station, District Amravati for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code is quashed and set aside.

(c) Consequential all the proceedings arising therefrom also stand disposed of.

8. Rule is made absolute in the aforesaid terms.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*