

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1770 OF 2020

1. Sunanda Sunil Sonar
2. Om s/o Sunil Sonar

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
2. Pushpa d/o Neharusingh Naglot-Rajput ... **RESPONDENTS**

.....
Mr. Joyeb I. Shaikh, Advocate for applicants
Mr. A.R. Kale, A.P.P. for State
Mr. Suresh M. Kulkarni, Advocate for respondent No.2.
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 6th JULY, 2023

ORDER :

Heard. This application has been moved for quashment of the F.I.R. bearing C.R. No.0285/2020, registered with Satara Police Station, Aurangabad for the offences punishable under Sections 354, 354(B), 452, 323 read with Section 34 of the Indian Penal Code and the consequential proceedings bearing R.C.C. No.588/2021, pending in the Court of Judicial Magistrate, First Class, Aurangabad.

2. Learned counsel for the applicants would submit that, the informant was residing in a Flat taken on rent from the applicants. On the given day, the applicants along with the prospective purchasers of the said Flat had entered the said Flat to see the same. There was also dispute over purchase of a motorbike between the parties to this application.

3. Whereas, what has been disclosed from the F.I.R. and the police papers is that, the informant alleges the applicant No.2 Om Sunil Sonar to have outraged her modesty. He fondled her breast and touched her inappropriately. The applicant No.1 allegedly manhandled her and, therefore, she lodged the F.I.R. against the present applicants.

4. On due investigation, the charge sheet has been filed. Learned counsel for the informant submits that, when the informant had been to the Police Station immediately to lodge the report, the police officials detained her at the police station for about four hours. In the meanwhile, the Police Station Officer recorded a non-cognizable case based on a report made by one of the applicants herein. He has, therefore, filed a separate writ petition for taking appropriate action against the police authorities. According to him, the husband of the applicant No.1 would send the informant obscene messages. The same indicates the applicants and all their family members were after the informant. The informant was a

helpless lady. According to him, the averments in the F.I.R. prima facie make out the offence against the applicants herein and therefore, on due investigation, the charge sheet has been filed. He would further submit that, no mini-trial can be held here. It is for the trial Court to proceed with and deal with the applicants in accordance with law.

5. We have considered the submissions made by the learned counsel. Perused the F.I.R. and all the police papers. It does appear that the relations between the applicants and their family members on one hand and the informant on the other were not good. The respondent/ informant was occupying a Flat of the applicants herein on rent. On the given day, three other persons had accompanied the present applicants to the said Flat. According to the applicants, the Flat was put for sale and those three persons were interested to purchase the Flat and, therefore, they had accompanied them to inspect the Flat.

6. All the police papers except the F.I.R. indicate the applicant Om Sunil Sonar to have not been involved in the crime in question. We also find it to be illogical to imagine that, the applicant Om Sunil Sonar, a 18 year old boy at the material time would do the alleged act with the informant that too in the presence of his mother. In our view, a petty incidence appears to have been blown out of proportion with a view to take vengeance or due to unfriendly

relations between the parties.

7. So far as regards offence punishable under section 452 of the Indian Penal Code is concerned, the averments in the F.I.R. indicate the applicants being owners of the Flat, had every right to enter the same. They had entered along with the prospective purchasers of the Flat. At the time they entered the Flat, they cannot be said to have entered the Flat with a view to commit an offence. This fact indicates that, in a spur of moment the quarrel ensued between the informant and the applicant No.1 Sunanda. The scuffle between the two was a non-cognizable offence, punishable under Section 323 of the Indian Penal code. As such, in view of the observations of the Apex Court, in case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in **AIR 1992 S.C. 604**, we find the present case to be a fit case for quashing the F.I.R. and the consequential proceedings. Hence the order :

ORDER

- (i) The Criminal Application is allowed.
- (ii) The F.I.R. bearing C.R. No.0285/2020, registered with Satara Police Station, Aurangabad for the offences punishable under Sections 354, 354(B), 452, 323 read with Section 34 of the Indian

Penal Code and the consequential proceedings bearing R.C.C. No.588/2021, pending in the Court of Judicial Magistrate, First Class, Aurangabad are quashed.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-