



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

982 CRIMINAL APPLICATION NO.2329 OF 2023

BALAJI S/O NARAYAN WANKHEDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Shashikant S. Londhe
APP for Respondent No.1: Ms. Kavita R. Jamdhade
Advocate for Respondents : Mr. Bhushan Mahajan (appointed)

.....

**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 8th DECEMBER, 2023.**

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

Heard.

2. This application is filed under Section 482 of Cr.P.C. for quashment of F.I.R. No. 10 of 2023 registered with Kalamnuri police station, District Hingoli for the offences punishable under Sections 354, 294, 323, 504, 506 of I.P.C.

3. The informant averred in the report that the construction of laying down the water pipeline was going in village Pur, Tq. Aundha, District Hingoli. The applicant, who is a contractor, was doing the work of laying down the pipeline for water supply. The applicant alongwith the Gram Sevak came at the house of informant and asked her as to why her husband has obstructed the work of lying down the pipeline. The informant told the applicant that they are poor persons

and no such incident took place. Her husband was also present there. He also tried to convince the applicant and Gram Sevak that no such obstruction is caused by them. The applicant abused her in filthy language on her religion also. Thereafter, the applicant caught hold the hand of the informant with a bad intention and assaulted her husband by fists and kick blows. Witnesses 1) Rajrao Bapuji Chirmade, (2) Dnyaneshwar Sambhaji Wankhede, (3) Datta Kashiram Ghonge, (4) Ravindra Baban Ingle, 5) Dnyaneshwar Digambar Bochara and 6) Kacharu Ukandi Jogdand rescued the husband of informant. She went to the police station on the same day for lodging the report, however, no cognizable offence was registered under section 323, 504, 506 of I.P.C. Therefore, she filed an application under section 156(3) of Cr.P.C. vide Criminal M.A. No. 217 of 2022. The order was passed by the learned Magistrate and accordingly crime was registered under Sections 354, 294, 323, 504, 506 of I.P.C..

4. Learned advocate for the applicant submitted a copy of non cognizance offence which is taken on record and marked "X" for identification. He pointed out that no such filthy abuses are mentioned in the report. There are no allegations of outraging the modesty of informant. He further pointed out that the application under section 156(3) of Cr.P.C. was filed with exaggeration and accordingly report is registered with false allegations.

5. Learned A.P.P. for the State and learned advocate for respondent No.2-informant strongly opposed the application by contending that the report and N.C. registered against the applicant clearly show the exact date, day and time of the incident. There is substance in the allegations of the informant. They lastly prayed for rejection of application.

6. Perused the report and the charge sheet. The N.C., ('X') registered at the instance of respondent No.2 clarifies that it was read over to her and thereafter she had signed it. There are no allegations about alleged outraging of modesty and the abuses in filthy language hurled by the applicant to the informant and her husband. This itself is sufficient to disbelieve the report lodged by the informant-respondent No.2. The allegations made in the report are not believable. In such circumstances, asking the applicant to face trial would be an abuse of process of the Court.

7. Considering all these aspects, we are inclined to allow the application. The application therefore, is allowed in terms of prayer clause "B".

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/