

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

71 CRIMINAL APPLICATION NO.3518 OF 2022

1. Smt. Faizana Mukhtar Ahmad Shaikh
2. Iqbal Ahmad Mohammad Shaban ...Applicants

versus

1. The State of Maharashtra
2. Ashfaq Ahmad Raes Ahmad ...Respondents

...  
Advocate for Applicant : Mr. Mohit S. Shah  
APP for Respondent No.1: Mr. S.N. Morampalle  
Advocate for Respondent No.2 : Mr. Satej S. Jadhav  
.....

**CORAM : R. G. AVACHAT AND  
SANJAY A. DESHMUKH, JJ.  
DATED : 28<sup>th</sup> AUGUST, 2023.**

**PER COURT :-**

Heard the learned counsel for the respective parties.

2. The application has been filed under Section 482 of Cr.P.C. for quashing of F.I.R. No. 266 of 2022 registered with Chalisgaon Road Police station, Dhule for the offences punishable under Sections 406, 420, 201, 120-B r.w. 34 of I.P.C. and the consequential charge sheet for the offence punishable under Section 385 of I.P.C. as well as the Regular Criminal Case No. 151 of 2022 pending before the J.M.F.C. Dhule.

3. In short, the case of the prosecution is that the applicant

No.1 is Head Mistress of Aabeda Abdul Mugni Urdu Girls High School and applicant No.2 is the Secretary of an educational institution viz. Anjuman Faroge-E-Taleem. The respondent/informant is one of the teachers serving with the said school. It is his case that on 4.12.2021, he was summoned by the Head Mistress in her chamber. The applicant No.2 was very much present there. One Jintendra Kashinath Borse (witness), a representative of Yashwatrao Open University was also present in the said chamber of the applicant No.1. Both, applicant No.2 and Jintendra were engaged in talk with each other. Applicant No.1 allegedly made a demand of Rs.4,00,000/- to send the salary bill of the informant. He was also threatened that if the demand was not met, he would be removed from service on one or the other count. On 8.12.2021 he was handed over one sealed envelope. He realized that it contained a complaint allegedly made by girl students alleging him to have been misbehaved with them. According to him, it was nothing but a false allegation.

4. The record further indicates that the respondent/informant approached the concerned police. Since the Police Station Officer did not pay heed to his report, he had to approach the Court of J.M.F.C. to seek directions under Section 156(3) of Cr.P.C. Accordingly, order was passed by the J.M.F.C. and the offence came to be registered. On investigation, charge sheet has been filed.

5. We have perused the record which indicates that the salary bills for the period from September 2016 to February 2020 had already been submitted under the signature of the very Head Mistress long before the alleged incident. As such, the averment in the F.I.R. that the demand of money was made for sending the salary bills is untrue. Moreover, in the statement of the representative of open University, which has been recorded under Section 164 of Cr.P.C., he states that no such meeting as has been alleged in the F.I.R. did take place in the chamber of applicant No.1. The statement of independent witness reinforces the case of the applicants although the learned counsel for the respondent informant and the learned A.P.P. submit that the averments in the F.I.R. and the consequential charge sheet indicate *prima facie* case to proceed against the applicants.

6. The aforesaid material goes long way to infer that the F.I.R. has been lodged with malafides. Asking the applicants to stand trial on such material would be an abuse of process of Court. We are therefore, inclined to allow this application. The application thus stands allowed in terms of prayer clauses "C" and "C-1".

**(SANJAY A. DESHMUKH, J.)**

**(R. G. AVACHAT, J.)**

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