

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3797 OF 2018

Dr. Kamrunnisa Begum w/o Ikramoddin
& another

Applicants

Versus

The State of Maharashtra & another

Respondents

Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. I. G. Durrani,
Advocate for the applicants.

Mr. M. M. Nerlikar, APP for the State.

Mr. V. R. Dhorde, Advocate for respondent No. 2.

**CORAM : SMT. ANUJA PRABHUDESSAI &
R. M. JOSHI, JJ.**

DATE : 16th JANUARY, 2023.

PER COURT :

1. With consent, heard finally at the stage of admission.
2. This is an application under Section 482 of the Code of Criminal Procedure for quashing the First Information Report No. 157/2016 registered with Khultabad Police Station and RCC No. 44/2017 pending on the file of learned Judicial Magistrate First Class, Khultabad for offences punishable under Section 354A, 504 read with Section 34 of the Indian Penal Code.

3. Heard learned Senior Counsel for the applicants, learned APP for the State and learned counsel for respondent No. 2. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

4. The only question for our consideration is whether the First Information Report lodged by respondent No. 2 herein and the material collected during the course of investigation discloses any offence as alleged against the applicants.

5. The Applicant No. 1 is the Incharge Principal and the applicant No. 2 is the Vice Principal and respondent No. 2 is the Assistant Professor in Kohinoor Arts, Commerce and Science College at Khultabad. Respondent No. 2 lodged a report on 7th October, 2016, alleging that since July 2015, the co-accused Dr. Mazharkhan, who is the Secretary of the society which runs the said educational institution, would ogle at her and make explicit sexual gestures. She has stated that he used to compel her to see obscene posts and messages on his mobile and used to outrage her modesty. She has further alleged that the Secretary would call her in the college premises after office hours and would ask her to keep her mobile

outside the cabin of the Principal and that he in connivance with the applicant No. 1 herein would make some gestures and thereby insult her and outrage her modesty. She has further stated that on 15th June, 2016, the co-accused i.e. the Secretary of the institution in connivance with applicant No. 2 threatened her to withdraw the complaint and submit an apology letter. It is also alleged that the co-accused abused and threatened to assault her and drove her out of the college premises.

6. A perusal of the First Information Report reveals that the allegations of sexual harassment are primarily against the co-accused who is the Secretary of the said society. It is vaguely stated that co-accused had acted in connivance with the applicants herein without specifying any act which would indicate that she shared intention with the co-accused to insult or outrage the modesty of the Respondent No. 2. It is also pertinent to note that in the complaint dated 15th June, 2016 and statement dated 3rd August, 2016, which forms part of charge-sheet, reveal that in the previous complaint and statement the respondent No. 2 had not implicated these applicants in any manner. In our considered view, even if the allegations are accepted as true and correct, the same does not disclose any

cognizable offence against these applicants. The case therefore squarely falls under the guidelines (1) and (3) laid down by the Hon'ble Apex Court in the case of State of Haryana and others vs. Bhajan Lal and others, **AIR 1992 Supreme Court Cases 335**. In such circumstances, compelling the applicants herein who are heading an educational institution, to face criminal prosecution on the basis of unfounded allegations would be nothing but a sheer abuse of the process of Court.

7. Hence, the application is allowed qua the applicants. First Information Report No. 157/2016 registered with Khultabad Police Station and consequential RCC No. 44/2017 pending on the file of Judicial Magistrate First Class, Khultabad for offences punishable under Sections 354A, 504 read with Section 34 of the Indian Penal Code stand quashed qua the applicants.

(R. M. JOSHI)
Judge

(SMT. ANUJA PRABHUDESSAI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3573 OF 2019

Dr. Mazharkhan s/o Anwar Khan

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. S. S. Kazi,
Advocate for the applicant.

Mr. M. M. Nerlikar, APP for the State.

Mr. V. R. Dhorde, Advocate for respondent No. 2.

**CORAM : SMT. ANUJA PRABHUDESSAI &
R. M. JOSHI, JJ.**

DATE : 16th JANUARY, 2023.

PER COURT :

1. Learned counsel for the applicant states that charge is not yet framed. Under instructions, he seeks leave to withdraw the application with liberty to file discharge application.
2. Leave with liberty granted.
3. Application stands dismissed as withdrawn.

(R. M. JOSHI)
Judge

(SMT. ANUJA PRABHUDESSAI)
Judge

dyb