

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPLICATION NO.963 OF 2021

- | | | |
|----|--------------------------|----------------|
| 1. | Hamida Ajaz Pirjada | |
| 2. | Ehteshaam Ajaz Pirjada | |
| 3. | Nadeem Shabir Shaikh | |
| 4. | Sumaiyya Pirjada Sharma | |
| 5. | Faiza Pirjada | ...Applicants |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Amol Jagdish Patole | ...Respondents |

Mr. Ashraf S. Patel, for the Applicants.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1 – State.

Mr. Satyajeet Dighe, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 1st FEBRUARY 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this application preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR

bearing C.R. No. 18 of 2020 registered with the Upnagar Police Station, Nashik, for the alleged offences punishable under Sections 406, 418, 419, 420, 465, 468, 469, 471, 120B r/w 34 of the Indian Penal Code.

3. Learned counsel for the applicants submits that the respondent No.2 (original complainant) has lodged a false and malicious complaint as against the applicants and hence they are squarely covered by the judgment of the Apex Court in the case of *State of Haryana and Ors v/s Bhajan Lal and Ors*¹. He submits that the present FIR has been lodged after two FIRs were lodged by the respondent No.2's wife as against the respondent No.2 and his family members and as such is clearly an after thought.

4. Learned counsel for the respondent No.2 opposes the application. He submits that there are several disputed questions of fact involved in the present case. He submits that even the document relating to the respondent No.2's conversion is a fake document and as

1 1992 Supp (1) SCC 335

such the same cannot be relied upon by the applicants. He further submits that the respondent No.2's wife had forced him to transfer huge amounts in her account, which then after the demise of his wife were transferred by the applicants into their accounts, by forging the death certificate of the respondent No.2's wife.

5. Learned APP also opposes the application. He submits that the case raises several disputed question of facts, which cannot be gone into by this Court under its inherent jurisdiction. He submits that after investigation, charge-sheet has been filed by the police and as such the submissions advanced by the learned counsel for the applicants are his defences. Learned APP submits that the death certificate of the deceased i.e. the respondent No.2's wife was forged by the applicants for transferring money from her account to the applicants account.

6. Perused the papers. It appears that the respondent No.2 and the applicant No.1's daughter got married on 8th March 2010,

after the respondent No.2 allegedly converted himself. It appears that thereafter domestic quarrels ensued between the parties. In 2016 the respondent No.2 instituted a Suit as against the applicants and his wife (now deceased). It appears that the respondent No.2's wife had also filed 2 FIRs as against the respondent No.2 and his family members. According to the learned counsel for the respondent No.2, the respondent No.2 was not even aware of the demise of his wife and her death certificate has been forged by the applicants. The same is vehemently denied by the learned counsel for the applicants. Learned counsel for the applicants also vehemently denies that the respondent No.2 was forcibly converted or that the document of his conversion is a forged document.

7. Considering the fact, that the facts in question, raises disputed question of fact, it is not possible for us to go into the same, under Section 482 of the Code of Criminal Procedure. Neither can we come to a conclusion that the case of the applicants is covered by clause – (7) of para 102 of the judgment of the Apex Court in the case

of *Bhajan Lal (supra)*, as contended.

8. Considering the aforesaid, no case is made out for interfering under our inherent jurisdiction. The application is accordingly dismissed.

9. Needless to state, that the trial Court to conduct the case, on its own merits, uninfluenced by the dismissal of the aforesaid application. All contentions of all parties on merits are kept open.

10. All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.