

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 1481/2022

Deepali w/o Sagar Patil .Vs. State of Maharashtra through PSO P.S. Malkapur
City, Dist. Buldhana.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. J. Thakkar, Advocate for applicant.
Mr. I. J. Damle, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.
DATE : JANUARY 31, 2023.

The applicant is wife of the informant. She has filed application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 03.11.2022 in Crime No. 455/2022, registered with Police Station Malkapur City, District Buldhana, for the offences punishable under Sections 143, 147, 148, 149, 307, 325, 341, 354-B, 504, 506, 323 of the Indian Penal Code and Sections 4 and 25 of the Arms Act.

2. According to the applicant, she got married to the informant on 07.03.2021. Initially, the informant and his family members have treated the applicant nicely. Later on, they started ill treating her. They have demanded a sum of Rs.10,00,00/- for purchasing the flat. The informant used to beat her after consuming liquor. The applicant came to know

that the informant is having a girlfriend by name Yogita. The applicant suffered continuous ill treatment. She left the company of the informant and went back to parental house and was residing with her parents. According to the applicant, on 29.10.2022, the informant accompanied with his parents, brother and other relatives, came to her house at Malkapur. The informant and his relatives have allegedly assaulted the applicant, her parents and relatives by means of iron rod, stick and axe. The incident was reported to Police Station and the FIR came to be registered vide Crime No.451/2022.

3. It is the case of the applicant that to counter the registration of the aforesaid FIR, the informant and others have on 02.11.2022 lodged the report against the applicant and her relatives, of the incident allegedly occurred on 29.10.2022. The report has been lodged belatedly and the FIR has been registered vide Crime No.455/2022 as mentioned above.

4. Thus, a picture is created to contend that the instant FIR is nothing but the counter story fabricated by the informant to dilute the effect of the FIR lodged by the applicant's side. However, the FIR lodged by the informant projects altogether different picture.

5. According to the informant, the applicant behaved nicely at the initial stage but later started quarreling with the informant. She insisted to live separately. On that count

there used to occur frequent quarrels between informant and the applicant. Once the informant made an attempt to commit suicide. The said incident was informed to her parents. The applicant was given treatment, but, thereafter, she left the company of the informant and started residing with her parents at Malkapur. The informant made repeated contacts with his father-in-law requesting him to send the applicant to her matrimonial house for cohabitation. He assured but did not send.

6. The FIR further states that on 29.10.2022, informant, his parents and other relatives went to Malkapur to fetch the applicant. While talks were going on, as the applicant was not willing to join company of the informant, she started quarrelling with the informant. At that time, cousin father-in-law of the informant locked the doors from inside and the father-in-law started abusing and beat the informant. The other relatives and the applicant along with three unknown persons have assaulted the informant, his parents and relatives by wooden stick, hockey stick, sword, iron rod and baseball bat. The mother of the informant was taken in the kitchen by the applicant, her mother and aunt. The father-in-law and his cousin instructed them to beat the informant's mother and remove her clothes. They have accordingly beaten the informant's mother. They have allegedly cut some hairs of the informant's mother for performing black magic. The applicant has allegedly destroyed the evidence caught in the mobile of the informant.

The applicant and her relatives demanded Rs.20,00,000/- to settle the matter by giving life threats. The informant and his relatives were admitted in the Government Hospital at Malkapur. Thereafter they were shifted to private hospital and then the informant has lodged FIR after getting the treatment and therefore there is a delay.

7. The arguments of learned counsel for applicant and the learned A.P.P. are in tune with narratives of the story put forth by both the sides.

8. Thus, there is a case and a counter case. The only difference is that the applicant has not placed on record the documents in support of her case. She has stated that the informant and his relatives have assaulted the applicant and her relatives by means of stick and iron rod, axe, etc. She has however neither pleaded of occurrence of injuries nor has she placed on record the injury certificate or any other document to show that she and her family members had suffered bodily attack. As against this, the order passed by the trial Court, not only indicates that the informant and his relatives were assaulted but also indicates that the Medical Officer of District Hospital, Malkapur had given intimation of the assault/incident to the police on the date of incident itself i.e. on 29.10.2022 when the informant and his relatives were admitted in the hospital. The learned Sessions Judge has opined that the investigating agency has committed serious lapses by not recording the FIR in time. There appears some

station dairy entry bearing No.17/2022, relating to the happening of the incident. It appears that the police did not visit the hospital immediately nor have they registered the FIR.

9. Be that as it may, the manner in which the applicant and her relatives have treated the informant and his relatives could be imagined from the contents of the FIR. The informant and his relatives appears to have approached the applicant and her parents with a request to send the applicant back to the matrimonial house. The applicant was not willing to cohabit with the informant. It appears that there is difference of opinion between two families. The applicant has doubt that the informant is engaged with other lady but then the said doubt even if is true, will not permit the applicant and her relatives to beat the informant and his parents. The applicant and her relatives mercilessly beat the informant and his parents that too by means of sword and other weapons. The use of weapons would indicate that the assault was predetermined. The assault was such that four persons from the informant's side sustained fracture injuries. Some of them have sustained multiple fracture injuries. The applicant and her relatives are accused of attempting to commit murder. The investigation is in progress

10. Considering the nature of allegations and evidence in support, it will not be appropriate to release the applicant on bail pending investigation. The applicant failed to make

out a case in her favour, at least at this stage. The application is liable to be rejected and stands rejected accordingly with the liberty to apply afresh before the Trial Court after filing charge-sheet, which the investigating officer shall file as expeditiously as possible.

(Anil L. Pansare, J.)

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