



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 232 OF 2022**

- 1) Udaysing Pandya Pavara,  
Age : 44 Years, Occu. : Service,
- 2) Vandana Bai Udaysing Pavra,  
Age : 42 Years, Occu. : Service,
3. Harshad Udaysing Pavra,  
Age : 19 Years, Occu. : Student,

All R/o Dashrath Nagar,  
Dondiacha Road, Shahada,  
Tal. Shahada, Dist. Nandurbar.

.. Applicants

**Versus**

- 1) The State of Maharashtra,  
Through : Police Inspector,  
Shahada Police Station,  
Tal. Shahada, Dist. Nandurbar.
- 2) Menka Sharad Aher,  
Age : 40 Years, Occu. : Housewife,  
R/o Dashrath Nagar,  
Dondiacha Road, Shahada,  
Tal. Shahada, Dist. Nandurbar.

.. Respondents

Shri P. P. Patni, Advocate for the Applicants.

Shri G. O. Wattamwar, A.P.P. for the Respondent No. 1.

Shri D. M. Pingale, Advocate for the Respondent No. 2.

**CORAM : MANGESH S. PATIL AND  
SHAILESH P. BRAHME, JJ.**

**DATE : 20 MARCH 2024.**

**FINAL ORDER (Per Shailesh P. Brahme, J.) :-**

- . Heard both the sides finally at the admission stage.
2. After hearing the parties for a while, when we expressed our disinclination to entertain the criminal application to the extent of applicant No. 1, learned counsel for the applicants, on instructions, seeks leave to withdraw the criminal application to the extent of applicant No. 1. The criminal application is dismissed as withdrawn to the extent of the applicant No. 1.
3. Applicants are seeking quashment of FIR bearing CR No. 954/2021 registered on 09.10.2021 with Shahada Police Station, Dist. Nandurbar and consequential charge sheet and R.C.C. No. 96 of 2023 pending before the Judicial Magistrate First Class, Shahada. Respondent No. 2 is the informant who lodged report against the applicants for the offence punishable U/Sec. 354, 354-D, 452, 323, 504, 506, 501, 294 r/w Sec. 34 of the Indian Penal Code.
4. Applicant No. 1 is husband of applicant No. 2 and father of applicant No. 3. Informant resides in the colony of applicants along with her husband Sharad, two daughters Vaishnavi and Vasundhara and a son Ashish. Applicant Nos. 1 and 2 have one more son and a daughter namely Bhavika. Applicants and the respondent No. 2 are relatives and from the same community.
5. The gist of complaint lodged by the respondent No. 2 is that

there was an affair of applicant No. 1 and 2's daughter Bhavika with a boy namely Karan Kantilal Pavra residing in the adjoining colony. Karan happened to be friend of informant's son Ashish. Applicants disapproved the affair and suspected that informant's son being friend of Karan was responsible for introducing Bhavika to Karan. It is further alleged that on 02.10.2021 Karan was assaulted at 12.00 p.m. and threatened by the applicants. They even went to the place of Karan and abused and manhandled his mother. Thereafter in the evening at 6.00 p.m. applicant No. 1 entered house of informant when she was present there with her daughters and abused her. He is alleged to have outraged her modesty and threatened her daughters. In the night on the same day, when informant's daughter namely Durgadevi was also abused and informant was defamed by alleging that she was earning money from prostitution.

6. Learned counsel for the applicants submits that, the allegations in impugned FIR are false and after thought. Impugned FIR is a counter blast to FIR registered by applicant No. 1 and 2's daughter Bhavika against Karan Kantilal Pavra and children of informant on 08.10.2021, which is prior in time. Accused in that FIR is alleged to have threatened and outraged modesty of Bhavika. Informant and her children are alleged to have incited Karan to commit the offence. Learned counsel submits that no offence can be made out against the applicants. The statements recorded during the course of investigation do not take the case further. They are interested witnesses. There is delay in lodging FIR. It is further submitted that it would be

abuse of process of law to proceed against the applicants.

7. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 oppose the submissions of the learned counsel for the applicants. They would submit that sufficient material has been collected during the course of investigation which indicates specific role and complicity of the applicants. They would submit that a full fledged trial would disclose the truth. It would not be fit to thwart the proceedings at this stage. They would vehemently rely upon the statement recorded U/Sec. 161 of the Cr. P. C.

8. We have considered the submissions of both the sides and perused the relevant papers. FIR is under consideration discloses specific overt act of applicant No. 1/Udaysing. It is alleged that Karan Kantilal Pavra was assaulted twice on 02.10.2021, but informant was not present there. Her version is hear-say one. Similar is the incidence of manhandling of Karn's mother Kamlabai. Thereafter, in the same night applicant No. 1 is alleged to have threatened Durgadevi, sister of Karan, but for that also informant is not a witness.

9. We find that the crucial incident occurred at 6.00 p.m. when informant along with her daughters was present in the house and applicant No. 1 barged in and outraged her modesty and threatened them. Applicant Nos. 2 and 3 are not stated to have accompanied the applicant No. 1. The statements of the witnesses also do not show presence of applicant Nos. 2 and 3 in the house of informant at 6.00 p.m. The supplementary

statement of the informant U/Sec. 164 of the Cr. P. C. also does not spell out presence of the applicants and their specific role in the offence in question.

10. Record reveals that applicant Nos. 1 and 2's daughter Bhavika lodged report on 08.10.2022 against Karan and children of the informant. Applicants and informant are at loggerheads. Implication of the applicant Nos. 2 and 3 in the false case cannot be ruled out. We are of the considered view that it would be abuse of process of law to allow the prosecution to proceed against the applicant Nos. 2 and 3.

11. We, therefore, allow this criminal application to the extent of applicant Nos. 2 and 3. FIR bearing CR No. 954/2021 dated 09.10.2021 for the offence punishable U/Sec. 354, 354-D, 452, 323, 504, 506, 501, 294 r/w Sec. 34 of the Indian Penal Code and consequential charge sheet bearing R.C.C. No. 96 of 2023 pending before the Judicial Magistrate First Class, Shahada are quashed and set aside to the extent of applicant Nos. 2 and 3 only. The criminal application is allowed partly.

**[ SHAILESH P. BRAHME, J. ]      [ MANGESH S. PATIL, J. ]**

*bsb/March 24*