



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

CRIMINAL APPLICATION NO. 748 OF 2023

1. Pramod s/o. Vitthalrao Bhise,
Age: 32 Years, Occu: Service as Dental Assistant on
contract basis in Civil Hospital Nanded.
2. Vinod s/o Vitthalrao Bhise,
Age: 35 Years, Occu: Driver,
Both R/o. At Jawala Pathak, Post-Mugat,
Tq. Mukhed, Dist. Nanded – 43180. ..Applicants

Versus

1. The State of Maharashtra,
Through Police Station Vimantal, Nanded.
2. Ravita d/o Devisingh Ade,
Age: 34 Years, Occu: Service as Warden in Govt. Hostel,
Nanded, R/o. Eklare Niwas, Nath Nagar, Nanded,
Tq. And Dist. Nanded. ..Respondents

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Mr. Rajendra M. Lone, Advocate for Applicants.

Mr. V. K. Kotecha, APP for Respondents-State.

Mr. S. R. Bagul, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATED : 01st OCTOBER, 2024.

P.C.

1. The present application has been filed for quashing FIR vide Crime No.14/2023 dated 14.01.2023 registered with Vimantal Police Station, Dist. Nanded for offences punishable under Sections 353, 504, 506 r/w 34 of the Indian Penal Code and consequential criminal proceeding in R.C.C. No.619/2023 pending before 6th Joint Judicial Magistrate First Class, Nanded.

2. Head Mr. Lone, learned Advocate appearing for applicants, Mr. Kotecha, learned APP for respondent no.1 and Mr. Bagul, learned Advocate for respondent no.2.

3. It is tried to be demonstrated on behalf of applicants that contents of FIR do not constitute offence punishable under Section 353 of the Indian Penal Code, as it deals with offence of assault or criminal force to deter a public servant from discharging his official duties. No force was applied by the applicants. Infact, applicant no.1 had made written complaint on 13.01.2023 to the Assistant Commissioner, Social Welfare and also to the District Social Welfare Officer, Nanded against respondent no.2-informant. It appears that, FIR has been lodged with ulterior motive to harass applicants, so also photographs of CCTV would show that no such incident of use of criminal force had occurred.

4. Per contra, Mr. Kotecha, learned APP for respondent no.1 and Mr. Bagul, learned Advocate for respondent no.1 submit that contents of FIR as well as charge-sheet would definitely cover ingredients of offence under Section 353 of the Indian Penal Code. The respondent no.2 being Rector of girls hostel was incharge and she was supposed to take measures in respect of safety of girls, who were residing in hostel. The statement of witness namely Chita Kale supports the contentions of FIR, so also documents would show that daughter of applicant no.1 had given it in writing regarding her behaviour and had asked for pardon, when there was a complaint by other girls in the hostel regarding behaviour of daughter of applicant no.1 and, therefore when respondent no.2 has made statement that girl should not be sent back to the hostel, applicants had entered into altercation, gave her threat that she would be removed from her service. The learned APP also submits

that supplementary statement of informant would give particulars that applicants had rushed towards her person.

5. Taking into consideration the scope under Section 482 of the Criminal Procedure Code, a limited observation can be made that there is material to support the FIR. It also appears that applicant no.1 and his wife had also given some documents stating that they would control behaviour of their daughter. The statement under Section 161 of the Criminal Procedure Code of the employees working in the hostel are required to be considered and also other documents which have been collected. When there is a *prima facie* evidence, this is not a fit case where we can exercise our powers under Section 482 of the Criminal Procedure Code. Hence, Criminal Application stands rejected.

6. Fees of learned Advocate appointed to represent respondent no.2 is quantified at Rs.5000/- to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE