



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2156 OF 2022

Moin S/o Majeed Qureshi,
Age-40 years, Occu:Business,
R/o-Khaja Nagar, Mominpura,
Beed, Taluka and District-Beed.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Police Inspector,
Peth Beed Police Station,
Taluka and District-Beed,
- 2) X. Y. Z.

...RESPONDENTS

WITH

CRIMINAL APPLICATION NO.307 OF 2023

- 1) Mubin S/o Majeed Qureshi,
Age-35 years, Occu:Business,
R/o-Khaja Nagar, Mominpura,
Beed, Taluka and District-Beed,
- 2) Shamshadbi W/o Moin Qureshi,
Age-40 years, Occu:Household,
R/o-Qureshi Mohala, Mominpura,
Beed, Taluka and District-Beed,
- 3) Abdul S/o Rauff Qureshi,
Age-47 years, Occu:Labour,
R/o-Mohamadiya Colony, Mominpura,
Beed, Taluka and District-Beed,

- 4) Arbaj S/o Moin Qureshi,
Age-21 years, Occu:Education,
R/o-Qureshi Mohalla, Mominpura,
Beed, Taluka and District-Beed,
- 5) Mujahid S/o Abdul Qureshi,
Age-35 years, Occu:Business,
R/o-Khaja Nagar, Mominpura,
Beed, Taluka and District-Beed,
- 6) Najeem S/o Kaleem Qureshi,
Age-25 years, Occu:Education,
R/o-Qureshi Mohalla, Mominpura,
Beed, Taluka and District-Beed,

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Police Inspector,
Peth Beed Police Station,
Taluka and District-Beed,
- 2) X. Y. Z.

...RESPONDENTS

...

Mr. Amol Ratan Gaikwad Advocate for Applicants in both the Applications.

Mr. M.K. Goyanka, A.P.P. for Respondent No.1 – State in both Applications.

Mr. Pratik P. Pangal Advocate h/f. Mr. H.V. Tungar Advocate for Respondent No.2 in both Applications.

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**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 7th AUGUST, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Both the Applications have been filed under Section 482 of the Code of Criminal Procedure for quashing the First

Information Report (for short "the FIR") vide Crime No. 40 of 2022 registered with Peth Beed Police Station, Taluka and District- Beed and the proceedings in Sessions Trial Case No. 197 of 2022 pending before the learned Additional Sessions Judge, Beed, for the offence punishable under Sections 376, 143, 323, 506 of the Indian Penal Code.

2. Heard learned Advocate for the applicants in both the matters, learned APP for respondent No.1 and learned Advocate Mr. Pangal holding for learned Advocate Mr. Tungar for respondent No.2.

3. After disinclination is shown to grant any relief to applicant in Criminal Application No.2156 of 2022, learned Advocate for the applicants, on instructions, seeks withdrawal of the said Application as against the said applicant. In view of the said statement, the said Application stands disposed of as withdrawn.

4. The submissions were considered for the applicants in Criminal Application No.307 of 2023. Learned Advocate for the applicants has taken us through the FIR as well as the material in the charge-sheet. He submits that respondent No.2 is thirty five years old married lady, having three sons and one daughter. She is residing with her husband and the children. She says that

she got acquainted with original accused No.1 – Moin Majeed Qureshi, who is the applicant in Criminal Application No.2156 of 2022. As regards the offences under Section 376 of the Indian Penal Code are concerned, those are all against the said applicant. Present applicants i.e. applicants in Criminal Application No.307 of 2023, are the relatives of said applicant – original accused No.1. They have been unnecessarily roped in on a concocted story which alleged to have taken place on 18th February 2022. The present FIR came to be lodged on 19th February 2022 at 2.16 hours. But in respect of the said incident dated 18th February 2022, original accused No.1 had lodged offence vide Crime No.39 of 2022 at 23.49 hours on 18th February 2022 itself, in which the present informant, her husband and other relatives are accused for the offence punishable under Sections 143, 147, 148, 149, 452, 326, 323, 504, 506, 427 of the Indian Penal Code. Thus, the present FIR against the present applicants is nothing but a counter blast. Though specific role is attributed to the applicants, it would be a futile exercise to ask the applicants to face the trial.

5. As aforesaid, the present application is restricted to the other accused persons and not accused No.1 against whom the allegations of rape are levelled. Therefore, only said part of the

FIR and the statements are considered. In the FIR, it is stated by the informant that on 18th February 2022, Moin Qureshi, accused No.1, was looking at her son with anger and therefore, the son of the informant asked him as to why he was staring at him. Thereby, there was altercation between them and then she says that all the accused persons had assaulted her son and when here relatives went to rescue her son, there was quarrel. In her supplementary statement, as regards the incident dated 18th February 2022 is concerned, she has not uttered a single word against the present applicants. Further, in her statement under Section 164 of the Code of Criminal Procedure also, there is nothing against the present applicants. In his statement, the son of the informant has only named the present applicants and stated that the applicants had assaulted him by slaps and fists. In none of these statements, they have made a statement, as to where exactly the alleged incident had taken place. Therefore, there is substance in the submissions on behalf of the applicants that the applicants have been roped as the FIR was already lodged against the informant and her relatives. Therefore, it would be unjust to ask the present applicants to face the trial and therefore, their application deserves to be allowed. Hence the following order:-

ORDER

(I) Criminal Application No.2156 of 2022 stands disposed of as withdrawn.

(II) Criminal Application No.307 of 2023 stands allowed.

(III) The proceedings in Sessions Trial Case No.197 of 2022 pending before the learned Additional Sessions Judge, Beed for the offence punishable under Sections 376, 143, 323, 506 of the Indian Penal Code arising out of First Information Report vide Crime No.40 of 2022 registered with Peth Beed Police Station, Taluka and District-Beed, stands quashed and set aside as against applicant No.1 - Mubin S/o Majeed Qureshi, applicant No.2 - Shamshadbi W/o Moin Qureshi, applicant No.3 - Abdul S/o Rauff Qureshi, applicant No.4 - Arbaj S/o Moin Qureshi, applicant No.5 - Mujahid S/o Abdul Qureshi and applicant No.6 - Najeem S/o Kaleem Qureshi.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE