



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

CRIMINAL APPLICATION NO. 2022 OF 2021

1. Neeraj S/o Jitendra Bawiskar,
Age : 26 Years, Occu. : Education,
R/o K-15/5, Pawannagar,
HUDCO, N-9, Aurangabad,
Tal & Dist. Aurangabad.
2. Siddharth S/o Dhondiram Hosurkar,
Age : 46 Years, Occu. : Service,
R/o as above.
3. Pradnya W/o Rajesh Kamble,
Age : 51 Years, Occu. : Household,
R/o Plot No. 39, Gut No. 2437/2438,
Behind Reliance Petrol Pump,
Raje Sambhaji Nagar, Ozar,
Tq. Nifad, Dist. Nashik.
4. Aruna W/o Devdatt Wakale,
Age : 48 Years, Occu. : Household,
R/o Building No. 17, Block No. S-1,
2nd Floor, Wardhman Apartment,
Near Rupa Bhawani Temple,
Solapur, Tq. & Dist. Solapur. .. Applicants

Versus

1. State of Maharashtra
Through Police Inspector
Police Station CIDCO,
Aurangabad, Tq. & Dist. Aurangabad.
2. Priti Anand Hosurkar,
Age : 21 Years, Occu. : Service,
R/o 15/5-6 Pawannagar,
N-9, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad. .. Respondents

Shri G. K. Naik Thigle, Advocate for the Applicants.
Shri M. M. Nerlikar, Addl.P.P. for the Respondent No. 1.
Shri Rahul G. Joshi, Advocate for the Respondent No. 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 20 FEBRUARY 2024.**

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

. The applicants seek to challenge first information report bearing CR. No. 538/2021 registered at CIDCO Police Station, Aurangabad, Tq. and Dist. Aurangabad and consequential charge sheet No. 182 filed on 14.11.2021. The respondent No. 2 is the informant, who has lodged complaint for the offences punishable U/Sec. 354, 294(B), 323, 504 and 506 r/w Sec. 34 of the Indian Penal Code registered on 30.07.2021.

2. Applicant Nos. 3 and 4 are sisters-in-law, the applicant No. 1 is the nephew and applicant No. 2 is brother-in-law, of the informant. Informant's husband Anand and her mother-in-law Lilabai are the eye witnesses of the incident in question. The applicant Nos. 3 and 4 are married and they are residents of Nashik and Solapur respectively.

3. It is alleged by the informant that on 16.07.2021, the applicants had been to the place of the informant and started questioning her for removing names of the applicant Nos. 3 and 4 from the ration card. She was abused and beaten up. The applicant Nos. 1 and 2 outraged her modesty and dragged her out

of home. She was abused in filthy language. Her husband was also beaten up and threatened.

4. First information report lodged by the respondent No. 2 was investigated and charge sheet was filed on 14.11.2021 against all the applicants. Statements of the witnesses have been recorded. There are couple of non cognizable offences registered by them.

5. The learned counsel for the applicants submits that applicant Nos. 3 and 4 are residents of their matrimonial places and there are no allegations against them except their presence at the time of incident. He would submit that they are falsely implicated because of the property dispute and the family bickerings. He would submit that there is delay in lodging FIR and it is actuated by oblique motive for wrecking vengeance.

6. He would submit that in fact a non cognizable offence has been registered at the instance of mother-in-law of the informant/Lilabai against informant and her husband. No offence can be made out from the papers of investigation. It would be an abuse of process of law to proceed against the applicants. Alternatively, it is submitted that application to the extent of applicant Nos. 3 and 4 be allowed considering that no incriminating role is attributed to them.

7. The learned Additional Public Prosecutor and the learned

counsel for the respondent No. 2 would oppose the submissions of the applicants. According to them specific role is attributed to all applicants in the first information report. The material has been collected against them during the course of investigation. It is submitted that a statement of the informant has been recorded U/Sec. 164 of the Code of Criminal Procedure (for the sake of brevity and convenience hereinafter referred as to the "Code"). Her husband/Anand and mother-in-law/Lilabai are the eye witnesses. The learned counsel for the respondent No. 2 would submit that in fact there is no property dispute. Written complaint dated 22.07.2021 submitted by the informant before lodging of FIR would indicate complicity of the applicants and also justifies delay in lodging FIR.

8. We have considered rival submissions of the parties. Their relationship is not disputed. We find that there are eye witnesses to the incident which occurred on 16.07.2021. We have perused statements of Anand (husband of the informant) and Lilabai (mother-in-law of the informant) recorded U/Sec. 161 of the Code. Additionally, we are shown statement of the informant recorded U/Sec. 164 of the Code. We are of the considered view that specific role is attributed to each of the applicants. Involvement of the applicants is explicit.

9. The statement of Lilabai cannot be read in isolation, to accept the submission of the learned counsel for the applicants that she did not attribute any allegations to attract Section 354 or Section 294(B) of the I. P. Code. Her statement cannot be said

to be inconsistent either with the first information report or statements of other witnesses.

10. The learned counsel for the applicants has invited our attention to the non cognizable offence registered at the instance of Lilabai on 17.07.2021 to show that there are family bickerings. An application submitted by Lilabai on 31.07.2021 has also been shown to buttress that the first information report is inherently improbable and the applicants are falsely implicated in the offence. It is further submitted that husband of the informant is a lawyer and non cognizable offence registered at his instance depicts a picture inconsistent with the allegations in the FIR under challenge.

11. There are couple of inconsistent non cognizable offences in the matter. However, there is strong *prima facie* material in the form of the statements U/Sec. 161 and 164 of the Code as discussed above. The relationship between the parties appears to have been strained, but these circumstances are not sufficient to quash the proceedings. A full fledged trial would be necessary to unravel the truth.

12. Considering the papers of investigation, we find that no case is made out to quash the proceedings. We have examined the matter on the touch stone of the principles laid down by the Supreme Court in the matter of State of Haryana Vs. Bhajanlal reported in *1992 SCC (CRI) 426*. We do not find merit in the submissions of the learned counsel for the applicants that the

allegations are improbable and they are made to settle the scores.

13. The criminal application is rejected.

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

bsb/Feb. 24