

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 576 OF 2024**

1. Mr. Chandrashekhar Dattatray Hule
Age – 53 years, Occu- Secretary
R/at-Borivali, Dahisar, Borivali, Mumbai,Petitioner

Vs.

1. State Of Maharashtra,
Through P.S.I. Godegaon
Police Station, Dist.-Pune
(Notice to be served on the A.P.P.
High Court Mumbai.)
2. Mrs. X.Y.Z.
Through Godegaon Police Station
Tal-Ambegaon, Dist. PuneRespondents

Mr. Rajaram V. Bansode, with Ms. Sheetal Ubale, for the Petitioner.

Mr. Vinod Chate, APP for Respondent No.1-State.

Mr. Uday B. Nighot, for Respondent No.2.

Mr. Atish Kale, PC/2178, Ghodegaon Police Station Pune.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.**

RESERVED ON : 5th August, 2024.

PRONOUNCED ON : 13th August, 2024.

JUDGMENT :- (Per Dr. Neela Gokhale, J.)

- 1) The Petitioner seeks quashing of the F.I.R. bearing C.R. No. 187 of 2022, dated 3rd August 2022, registered with Ghodegaon Police Station, Pune Rural, for the offences punishable under sections 354-A and 509 of the Indian Penal Code, 1860 ('I.P.C.') and the subsequent criminal proceedings arisen thereof bearing R.C.C. No. 26 of 2023 pending before

Judicial Magistrate First Class, Ghodegaon, Taluka: Aambegaon, District: Pune.

2) Brief facts of the case:

2.1) The Respondent No. 2/informant states that, she works at S.M. Joshi Karnabadhir Niwasi Vidyalaya Narodi, Taluka Aambegaon, District Pune. There is already a F.I.R against the founder of the institution, Mr. Chandrashekhar D. Hule, the Petitioner herein and other accused. The criminal proceedings arising therefrom are pending before the Sessions Court, Khed bearing Sessions Case No. 203 of 2021.

2.2) The informant states that, in order to pressurize the informant and her husband to withdraw the aforementioned case, the Petitioner has harassed them in many ways. *Firstly*, a case relating to dishonor of cheques issued by her husband was filed against him; *Secondly*, five months' salary of herself and her husband was withheld; *Thirdly*, she is being sexually harassed at her work place; *Forthly*, the employees are made to work night shifts and *lastly*, all the employees are being forced to pay Rs.1,000/- to the institute.

2.3) She further states that, between the period of 11th June, 2022 to 2nd August, 2022, the Petitioner would make obscene gestures towards her like spitting, stomping his feet, biting his lip, deliberately bumping past her including other actions that would embarrass her. She also states that, due to such actions of the Petitioner, the behavior of the other employees changed towards her and her husband. The other employees ostracized her,

which deteriorated her mental health.

2.4) She has also stated that on 18th July, 2022, when the Respondent's husband had come to pick her and their son from the school, the school gates were intentionally kept locked and their shifts were changed to harass them.

3) Mr. Rajaram Bansode, learned Advocate appears for the Petitioner. Mr. Uday Nighot, learned Advocate appears for the Respondent No.2. Mr. Vinod Chate, learned APP represents the State.

4) Mr. Bansode argues that, the present F.I.R. is registered since the Petitioner was released on bail in the FIR No.90 of 2021 for offences punishable under Sections 376, 376(2)(n), 506 read with 34 of the IPC lodged by the Respondent No.2 against him. It was purely with the view to ensure his continued detention that, the present FIR is lodged. He submits that, the Petitioner is not a permanent resident of the village where the school is situated and hence, the allegations of obscene conduct and gestures are false. There is also no independent witness to support the prosecution case and the Petitioner is falsely implicated as accused by the Respondent No.2. It is only because the Petitioner provided financial assistance to the Respondent No.2's husband and sought repayment of the said amount on account of which these allegations are made against him. Mr. Bansode tendered across the bar findings of the Internal Complaint Committee of the Institution constituted under the Prevention of Sexual

Harassment of Women at Work Place Act, 2013 ('POSH'). The Report of the Committee has clearly absolved the Petitioner of the charges. Thus, there is nothing to indicate commission of the offence as alleged and hence, he prayed that, the FIR be quashed.

5) Mr. Nighot submitted that, the Petitioner has harassed the Respondent No.2 with the sole intention of pressurizing her to withdraw the FIR alleging rape and other offences. He reiterated the contents of the FIR and submitted that, the offences are grave and hence, the Petition be dismissed.

5.1) Mr. Chate supports the case of the Complainant and opposed the Petition.

6) We have heard the parties and perused the material on record.

7) A plain but careful reading of the FIR does not reveal commission of the offences as alleged. The ingredients of the alleged offences are not fulfilled. It appears that, the Respondent No.2 has complaints about her own service conditions and the allegations are nothing but an attempt to take advantage of her own wrong. The Internal Complaints Committee, upon examination of witnesses has found that, there were 16 CC TV cameras installed at various places of the institution from the beginning and at present, there are 32 CC TV cameras onsite. There is no material to corroborate her allegation regarding the Petitioner harassing her in open ground of the school. The findings of the Committee also indicate that, the

Respondent No.2 was a habitual late comer in the school which is revealed from bio-metric machine installed for punching attendance. There is also material to indicate that, it is only when the Petitioner sought repayment of the loan amounts advanced by him to the Respondent No.2's husband, that the allegations are made. The final conclusion of the report is that, there is nothing to indicate that, she was sexually harassed by the Petitioner.

8) The ingredients of the offences as alleged in the FIR are serious. If they were to be believed, details of the offensive instances ought to have appeared in the complaint. There are general and omnibus allegations in the FIR, the date and time of commission of the alleged offences is not specified. The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of *State of Haryana v. Bhajanlal & Ors.*¹. The parameters are:-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2)

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and

¹ 1992 Supp (1) SCC 335.

make out a case against the accused.

(4)

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6)

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9) In our opinion, the present case falls within the parameters no. 1, 3, 5 and 7 respectively, referred to above.

10) In its decision in the case of *Salib @ Shalu @ Salim Vs. State of U.P. & Ors.*², the Apex Court in the context of *prima facie* determining the veracity of the allegations made in a FIR, has observed as follows:

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for

2 2023 INSC 687, 2023 SCC Online SC 947

wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as

alleged.”

11) The case in hand also *prima facie* appears to be based on a personal vendetta against the Petitioner. Despite prosecution arising from other FIR alleging serious offences of Section 376, etc. of IPC, is pending, it is highly improbable that the Petitioner would continue the offensive behaviour. The Respondent No.2 is also not seen to have requested cancellation of bail of Petitioner or sought to invoke other available legal measures to combat the alleged acts. Even otherwise, this FIR suffers from lack of specifics, especially in view of the offences as alleged. The Internal Complaints Committee has also rendered a finding exonerating the Petitioner from alleged behaviour after examining witnesses and other electronic evidence that does not support the case of the Respondent No.2. Thus, the only motive of the Respondent No.2 in filing this FIR appears to be that of settling personal scores with the Petitioner and wreaking vengeance out of a personal grudge.

12) In the overall view of the matter, we have no hesitation in holding that, the allegations levelled against the Petitioner in the FIR do not disclose commission of any cognizable offence. In that view of the matter, F.I.R. bearing C.R. No.187 of 2022 dated 3rd August 2022 registered with Ghodegaon Police Station, Pune Rural for the offences punishable under Sections 354-A and 509 of the IPC

and the subsequent criminal proceedings bearing R.C.C. No. 26 of 2023 pending before Judicial Magistrate First Class, Ghodegaon are quashed and set aside.

13) The Petition is accordingly allowed.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

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signed by
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