

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.904 OF 2024

1. Devashree w/o Devendra Thakre,
Age 45 years, Occu: Housewife.
 2. Devendra s/o. Sadashiv Thakre,
Age: 45 Years, Occu: Service.
 3. Riya s/o. Devendra Thakre,
U/guardianship of Applicant No.1 and 2.
Age: 15 years, Occu: Student,
Applicant No.1 to 3
R/o. Flat No.A/13, 3rd Floor, Swarna CHS,
Panchapakhadi, Thane West.
 4. Dinesh Harishchandra Gharat,
Age: 42 years, Occu: Service,
R/o. T/3 A-Wing, Vanraj Society,
Forest Colony, Thanekar Wadi,
Kopri Gaon, Thane East.
 5. Gorakh s/o. Yadav Thakre,
Age: 60 years, Occu: Service,
 6. Nikhil s/o. Gorakh Thakre,
Age 32 years, Occu:.
Applicant Nos.5 and 6
R/o. Room No.3, Kanchanganga Chawl,
Near Samshan Bhumi, Chitalisar,
Manpada, Thane West.
-Applicants
- Vs.
1. The State Of Maharashtra,
(Copy to be served upon GP of
Bombay High Court)
Through Police Inspector Naupada
Police Station, Dist Thane CR.No.703/2024.
 - 2) Jayvant Raghunath Patangrao,
Age: 47 years, Occu: Service,
R/o. House No.602, 6th Floor,
Shreeji Villa Apartment,
Lohar Ali Road, Thane West.
-Respondents

Mr. Abhishek Kulkarni with Mr. Sagar Wakale, for the Applicants.
Smt. Madhavi H. Mhatre, APP, for Respondent No.1-State.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.
RESERVED ON : 20th SEPTEMBER, 2024.
PRONOUNCED ON : 1st OCTOBER, 2024.**

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

1) Applicants seek quashing of C.R.No.703 of 2024 dated 27th May 2024 registered with Naupada Police Station, Thane, for the offences punishable under Sections 323, 384, 504, 506 read with 34 of the Indian Penal Code, 1860 ('IPC').

2) Facts of the case in brief are as follows:

2.1) It is the case of the First Informant, i.e., Respondent No.2 that, he is a Police Hawaldar and was serving in the Crime Branch of Naupada Police Station, Thane, from the year 2007-2015. He became acquainted with the Thakre family, i.e., Applicants herein, as they were introduced to him by a senior Officer in relation to some work of taking admission for the Applicant No.3 herein, i.e., a minor daughter of Applicants No.1 and 2.

2.2) The Applicant No.1 and the Respondent No.2 kept meeting each other in the context of searching for a house property as both of them were looking to purchase new residential accommodation. It is alleged that on 2nd February 2024 the Applicant No.1 invited the Respondent No.2 to her house. She introduced him to her minor daughter, Riya (Applicant No.3)

who was then studying in 10th Standard. After some discussion, the Respondent No.2 left their house and went home.

2.3) On 4th February 2024, the Applicants No.1 and 3 came to the house of the Respondent No.2 along with Riya's friend. All of sudden, the Applicant No.1 started accusing the Respondent No.2 that, he had molested her daughter Riya on 2nd February 2024 when he had visited their house. The Respondent No.2 was shocked at this accusation and refuted the same. The Applicant No.1 however, angrily abused the Respondent No.2 and threatened him that she would make a complaint against him of sexual harassment to her minor daughter Riya (Applicant No.3) with the Police.

2.4) On 8th February 2024, the Applicants again called the Respondent No.2 to meet them near the Perfect Motor Driving School. When he went to meet them, the Applicants were accompanied by some other people as well. They demanded an amount of Rs.50 Lakhs from him failing which they threatened to implicate him in a false case of sexually harassing the minor daughter, Riya. They further threatened that, they would ensure that the Respondent No.2 would lose his job due to it. They also beat him up with fist blows and kicks on his face, stomach, chest and back. They further threatened dire consequences to his wife and son. The Respondent No.2 pleaded with them and repeatedly denied having done anything untoward to Applicant No.3 and also requested them not to falsely implicate him in such accusations.

2.5) On 9th February 2024, the Applicants once again beat up the Respondent No.2 and his wife and forced him to write some statements on a Rs.100/- stamp-paper. They then took the paper to be notarized before one Notary namely, Advocate Gole. The Applicants even convinced Advocate Gole to attest the paper. On 22nd February 2024, the Applicant No.1 called the Respondent No.2 on mobile phone and said that she and her husband wanted to meet him. When the Respondent No.2 went to meet them, once again they renewed the demand of Rs.50 Lakhs failing which, they threatened to file a false criminal complaint against him. They also blackmailed him with stamp-paper. The Respondent No.2's wife also pleaded with the Applicants that he had not done any wrong to Applicant No.3.

2.6) On 26th February 2024, the Applicant No.1 called the Respondent No.2 on his mobile phone and said that instead of giving Rs.50 Lakhs to her, the Respondent No.2 should incur expenditure for the medical education of Applicant No.3 as she wanted to study medicine abroad. She again renewed her threats. The Respondent No.2 being fed up with these demands of extortion and threats of false complaint, inquired with one Shri Pankaj Mehta, the Secretary of Swarna Society in which the Applicants resided and he learnt that in 2015 the Applicant No.1 had also implicated another member of the society namely, one Shri Chalke by falsely accusing him of sexually harassing minor daughter Riya. He also learnt that, the said

Chalke was frightened of the Thakre family and was compelled to leave the society along with his family. In these circumstances, the Respondent No.2 filed the impugned FIR alleging that, the Applicants have committed the offence of extortion and other offences, as alleged.

3) Heard Mr. Abhishek Kulkarni, learned counsel for the Applicants and Smt. M. H. Mhatre, the learned APP for the State. Perused the original record of investigation produced before us.

4) Mr. Kulkarni submitted that, it is highly unbelievable that the Respondent No.2 being a Police Officer serving in the Department for the last twenty years would be a victim of extortion and would be intimidated by threats given by the Applicants. He tried to sway the Court by pointing to some complaint against the Respondent No.2, contending that it is because of a prior complaint against the Respondent No.2 that he has lodged the present FIR. He further submits that none of the ingredients as alleged in the FIR are satisfied and the present FIR is only a counterblast against a previous complaint pending against the Respondent No.2 and he is afraid that because of the previous complaint he will lose his service. Mr. Kulkarni submits that, in fact the Applicants are innocent and are fighting for justice for their minor daughter, Riya who was sexually harassed by the Respondent No.2. The present FIR is an outcome of the grudge held by the Respondent No.2 against the Applicants. He thus, prayed that the Application be allowed and the FIR be quashed.

5) Smt. Mhatre pointed out to the Court the record of investigation. She submitted that, the investigation is completed and Final Report is ready to be filed in the jurisdictionally competent Court. The Final Report contains the seizure panchanama of the memory card of the mobile phone from which the threats to falsely implicate the Respondent No.2 in the criminal case were made. There is also transcript of the said entire conversation between the parties. Smt. Mhatre also pointed to voice sample panchanama to contend that, the same established the voices in the phone conversation to be that of the Applicant No.1 and the Respondent No.2. She thus urged the Court to dismiss the Application since there is sufficient evidence to indict the Applicants in the present crime.

6) From the plain reading of the FIR, it is evident that there were demands of money by the Applicants No.1 and 2 from the Respondent No.2. Record of investigation *prima facie* indicates that, the allegations in respect of punching the Respondent No.2 on his face and chest are corroborated by the injury certificate of Dr. Apte, which has been obtained by the Police during the course of the investigation. We have also perused the statements of witnesses namely, the Notary Smt. Sunita Gole, Smt. Janhavi Patangrao, the wife of the Respondent No.2 and also of Shri Pankaj Mehta residing in the Swarna Society of which the Applicants are also residents. The Notary has clearly stated about the incident of the Applicants bringing the Respondent No.2 to her office. She noticed that he was crying

and was under pressure while signing the paper. Mr. Mehta also corroborates the allegation of the Respondent No.2 in the FIR regarding the Applicant No.1 having threatened another society resident in a similar manner. Most importantly, the transcript of the mobile phone conversation between Applicant No.1 and Respondent No.2 clearly corroborates the allegation of extortion of huge amount made by the Respondent No.2. The Applicant No.1 is clearly found to have demanded Rs.50 Lakhs or entire expenditure of Applicant No.3's medical education abroad, failing which she threatened to implicate the Respondent No.2 in a false criminal case and ensure that he goes to jail. Thus, *prima facie* the record of investigation demonstrates commission of the offence as alleged by the Respondent No.2.

7) Mr. Kulkarni tried to argue that the FIR was false and was only a counterblast to an earlier complaint made by the Applicants against the Respondent No.2. In our view, this can only be a probable defence of the Applicants to be put forth in the ensuing trial. *Prima-facie*, the record of investigation as shown to us discloses commission of cognizable offences as alleged. It is unfortunate that the Applicants have tried to use their minor daughter, i.e., Applicant No.3 herein as a pawn to extort money from the Respondent No.2 as well as from another resident in the society.

8) The Supreme Court in the case of *Central Bureau of Investigation v. Aryan Singh*,¹ has held that as per the cardinal principle of

1 2023 SCC OnLine (SC) 379.

law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 of Cr.P.C., the Court is not required to conduct the mini trial. At the stage of quashing of FIR/Criminal Proceedings, the prosecution/investigating agency is not required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency. At the stage of discharge and/or while exercising the powers under Section 482 of Cr.P.C., the Court has a very limited jurisdiction and is required to consider whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not.

9) The Supreme Court in a recent decision in the case of *Manik v. Kadapala Sreyes Reddy & Anr.*,² the Apex Court has clearly held as under:

“6. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial.

7. Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C.

8. The scope of interference, while quashing the proceedings under Section 482 Cr.P.C. and that too for a serious offence like Section 302 of Indian Penal Code is very limited. The Court would exercise its power to quash

² MANU/SCOR/113641/2023.

the proceedings only if it finds that taking the case at its face value, no case is made out at all.”

10) The Hon’ble Supreme Court in yet another case of *Iqbal alias Bala and Ors. Vs. State of U.P and Ors., reported in (2023) 8 SCC 734 : 2023 SCC OnLine SC 949*, in para No.8, has held that, even if the allegations levelled in the F.I.R. do not inspire any confidence more particularly in the absence of any specific date, time, etc. of the alleged offence, yet the Applicants seeking quashing of F.I.R. should prefer discharge application before the Trial Court under Section 227 of Cr.P.C., the investigation being over and chargesheet ready to be filed before the competent Court. In such circumstances, the Trial Court should be allowed to look into the materials which the Investigating Officer might have collected forming part of the chargesheet.

11) Viewed in this perspective, it *prima facie* appears from the perusal of the investigation record that, the Applicants No.1 to 3 in connivance with each other have implicated Respondent No.2 in the criminal case and have actually carried out their threat as the Respondent No.2 not having succumbed to their extortion demands. The statement of Applicant No.2 regarding his wife narrating to him the incident of the Respondent No.2 sexually harassing Applicant No.3 does not inspire any confidence. The alleged incident of sexual harassment took place on 2nd February 2024 and the complaint was made on 26th March 2024. The

reason for delay as stated in the statement is that, he was in Italy at that time and decided to ponder upon the situation. It is during this period that, the extortion demands were made. Hence without commenting on the veracity of the sexual harassment allegation, it *prima facie* appears that, Applicants tried to encash on the circumstances. We are not examining the veracity of the allegation of sexual harassment in this Petition. We are only dealing with the allegations of extortion by the Respondent No.2, which *prima facie* appear to be true and inspires confidence in the mind of this Court. It also appears to us that, all the Applicants in connivance with each other and with common intention indulged into commission of the present crime.

12) The defence of the Applicants that the present F.I.R. is a mere counterblast to the sexual harassment complaint against the Respondent No.2 will have to be established by them in the ensuing trial. This defence cannot be tested by the High Court in its inherent jurisdiction. The Supreme Court in a recent decision in the case of *Priyanka Jaiswal v. The State of Jharkhand and Ors.*³ has observed as under:

“13.....This Court in catena of judgments has consistently held that at the time of examining the prayer for quashing of the criminal proceedings, the Court exercising extraordinary jurisdiction can neither undertake to conduct a mini trial, nor enter into appreciation of evidence of a

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particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside.....”

13) Thus, considering the facts of present case and the settled legal position, in our inherent jurisdiction under Section 482 of the Cr.P.C., we are only required to examine existence of a *prima facie* cognizable offence whether disclosed in the FIR or otherwise. In the present case, we have perused the F.I.R. and the record of investigation which on the face of it indicates sufficient material to hold disclosure of commission of cognizable offence.

14) In view of the above discussion, we have no hesitation in holding that no compelling reasons are made out to quash the FIR. Proceeding with the trial will not in any manner amount to abuse of the process of law. Hence, the Application is dismissed.

14.1) The Original Record of investigation is returned to the APP for its onward transmission to the Investigating Officer.

(DR NEELA GOKHALE, J.)

(A. S. GADKARI, J.)