



Judgment

925 apl 112.23

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY :**  
**NAGPUR BENCH : NAGPUR.**

**CRIMINAL APPLICATION (APL) NO. 112/2023**

1. Dilip s/o Sopan Ingle,  
Aged about 51 yrs., Occ. Service,  
R/o. At post Harankhed,  
Tal. Malkapur, Dist. Buldhana.  
**(Original accused No.1)**
2. Utpal s/o Dilip Ingle,  
Aged about 20 yrs., Occ. Education,  
R/o. At post Harankhed,  
Tal. Malkapur, Dist. Buldhana.  
**(Original Accused No.2)**

... **APPLICANTS**

**VERSUS**

1. State of Maharashtra through  
Police Station Officer, Malkapur  
Gramin, Dist. Buldhana.
2. Sau. Minal Hemant Borle,  
Aged about 27 yrs.,  
Occ. Housewife,  
R/o. At post Malegaon,  
Tal. Motala, Dist. Buldhana.  
**(Orig. Complainant)**

... **NON-APPLICANTS**

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Mr. K.H. Anandani, Advocate for applicants.  
Mr. A. Joshi, Addl. Public Prosecutor for non-applicant No.1.  
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**CORAM : VINAY JOSHI AND  
MRS. VRUSHALI V. JOSHI, JJ.**

**DATE : 19.08.2024.**

**ORAL JUDGMENT (PER: VINAY JOSHI, J.) :**

Heard.

2. This is an application seeking to quash charge-sheet bearing RCC No. 394/2021 arising out of Crime No. 59/2021, registered with Police Station Malkapur Gramin, Dist. Buldhana for the offence punishable under Sections 354-A, 354-D, 504, 506 read with Section 34 of the Indian Penal Code. It is informed that the Trial Court has not recorded the evidence of witnesses. The informant though served, remained absent.

3. It is applicants' contention that out of vengeance, present report is belatedly filed. According to the applicants, the First Information Report ("FIR") is nothing but counter check to the earlier FIR lodged by the applicant on the very day. The applicant would submit that there was a village rivalry. The incident of beating took

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place on 18.02.2021 in between informant's relatives and applicant. For said occurrence, applicant has lodged report however, in retaliation, existing false report is lodged by the informant.

4. At the instance of report dated 02.04.2021 lodged by non-applicant No.2 informant lady, crime has been registered. It is informant's case that applicant No.1. Dilip was residing in the same locality. He use to tease and make sexual advances towards informant/victim on an often. Particularly, it is her case that on 25.12.2020 at 02.00 p.m., when she was at her doorstep, the applicant Dilip came and by winking, made some gesture. Immediately, informant disclosed the things to her father. Thereafter informant and her father went to the house of applicants for asking to desist from such activities, but applicant Dilip and his son Utpal (applicant No.2) abused them in filthy language. The informant stated that as she was scared, it caused delay in lodging report.

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5. The learned counsel appearing for applicants took us through FIR bearing Crime No. 58/2021 lodged by applicant No.1 on the very day. The said report was lodged against total five persons out of which informant's husband Hemant is one of the accused. Moreover, the said FIR was against two brothers of informant.

6. Applicant Dilip reported to the Police that on 18.02.2021 in the late evening, he was beaten by several persons including informant's two brothers and husband, on which he sustained injuries of grave nature. Our attention has been invited to an application filed by Rashmi wife of applicant Dilip on 20.02.2021 to the Police regarding occurrence. It is stated that since at the relevant time applicant Dilip (injured) was unconscious, he could not lodge report. However, later on, he went to the Police and lodged report which was registered as Crime No. 58/2021.

7. It is argued that after registration of crime at the instance of report of applicant Dilip, the informant rushed to the Police on the same day and lodged existing report (Crime No. 59/2021) by creating

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false story. It reveals that on 02.04.2021, the applicant Dilip went to the Police Station to lodge report around 04.00 p.m., on which Crime No. 58/2021 has been registered against the informant's husband Hemant and two brothers namely Tejas and Bhushan. Likewise, Police Paper indicates that after four hours, the informant went to the Police Station on 02.04.2021 around 08.19 p.m. and lodged report regarding the old occurrence dated 25.12.2020.

8. With the assistance of both sides we have gone through the entire charge-sheet. Besides informant, no one has stated to have seen actual occurrence. Though informant stated that the alleged incident was witnessed by her relative Indubai, however the statement of Indubai is silent about witnessing the things. So far as the statement of other relatives are concerned, admittedly they are not eye-witnesses, but they learnt the things from the informant. Pertinent to note that on the day of occurrence itself, the incident was disclosed by the informant lady to her parent and relatives, however for next three and half month, no report was lodged. In that background, it assumes significance that on 02.04.2021 in the afternoon, applicant Dilip has

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lodged report which obviously has been reacted by the informant in rushing to the Police Station and lodging report. It is evident that in order to retaliate, the report has been lodged by the informant. Thus, the strong probability of lodging the report out of vengeance would surface. We do not see any plausible reason given by the informant for keeping mum for the period of three and half months and then lodging the report exactly at the time when a report has been lodged by the applicant against her family members. Moreover, the informant's statement has not been supported by any of the eye-witness. It reveals that the allegations against applicant No. 2 Utpal are quite vague and have not been detailed in the report.

9. This Court is vested with inherent powers to prevent abuse of the process of Court. In case of *State of Haryana Vs. Bhajan Lal*, **AIR 1992 SC 604**, the Supreme Court has laid down the parameters, on which the discretion has to be used while exercising inherent powers of this Court. The facts of the case squarely fall in category No. 7 as laid down in para 108 of the case of Bhajan Lal (supra). Though there are cross cases, the incidents are quite different having

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no nexus. It appears that in order to give counter check, belated report has been lodged with ulterior motive. In such peculiar facts, it would be unjust to require the applicant to go with the ordeal of trial. The applicants have made out a case to exercise our inherent powers to secure the ends of justice.

10. In view of above, application is allowed. We hereby quash and set aside charge-sheet bearing RCC No. 394/2021 arising out of Crime No. 59/2021, registered with Police Station Malkapur Gramin, Dist. Buldhana for the offence punishable under Sections 354-A, 354-D, 504, 506 read with Section 34 of the Indian Penal Code.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)