



Judgment

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

CRIMINAL APPLICATION [APL] No. 166 OF 2021.

1.Surendra s/o Narayanrao Kaple,
Aged about 46 years, resident of
Ingale Nagari, Tadas Layout,
Pipri (Meghe), Tahsil and
District Wardha.

2.Vedant s/o Surendra Kaple,
Aged about 16 years (Minor),
through natural Guardian Father
Surendra Narayanrao Kaple, resident of
Ingale Nagari, Tadas Layout,
Pipri (Meghe), Tahsil and
District Wardha.

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APPLICANTS.

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station Ram Nagar,
Wardha.

2.Lipika w/o Pundlikrao Dodke,
Aged Major, resident of
Ingale Nagari, Tadas Layout,
Pipri (Meghe), Tahsil and
District Wardha.

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NON-APPLICANTS.

Rgd.

Mr. S.D. Chopde, Advocate for Applicants.
Mr. S.B. Bissa, A.P.P. for Non-applicant No.1.
Mr. A. Gokhale, Advocate for Non-applicant No.2.

**CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.**

DATE : APRIL 01, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. This is an application seeking to quash the charge sheet arising out of first information report bearing Crime No.489/2020 registered with Ramnagar Police Station, Wardha for the offence punishable under Section 354-A, 294, 323 read with Section 34 of the Indian Penal Code as regards applicant no.1 and the concerned first information report against the applicant no.2, who is a child in conflict with law.

Rgd.

3. The facts in brief are that the applicants and the informant lady are next door neighbours. There was a dispute in between them on account of alleged encroachment on public way. It is the case of informant that on 13.09.2020 around 2.30 p.m., there was a dispute amongst ladies on account of construction/repairs of a streamlet for sewage purpose. The informant alleges that at the relevant time the applicant along with his son arrived on the spot. They have abused the lady namely Manisha and assaulted her. The informant went to the rescue of Manisha, however, the applicant no.1 Surendra assaulted her with fists blows and then pulled her garments and thus, outraged her modesty. Likewise, the applicant no.2 has abused her in filthy language, and therefore, the offence.

4. At the instance of said report, the police have registered the aforesaid crime on 14.09.2020. During the course of investigation the police have recorded statements and completed the process of investigation. As per the directions of this Court, charge sheet was filed against applicant no.1. Since the applicant no.2 was

a juvenile, though charge sheet was ready, however, it was not filed before the Juvenile Justice Board. The learned Counsel for applicants would submit that the parties are in rival terms on account of encroachment on a common road. Applicant no.1 has filed several complaints against the informant and her husband. The local authority has also issued notices to the husband of the informant for removal of encroachment, and thus, the parties were in cross terms.

5. In order to substantiate said contention, applicants have produced copy of complaints dated 04.07.2019, 25.07.2019, 07.09.2019, 09.10.2019 and related notices issued by the local authorities to the informant for that purpose. Moreover, at the instance of grievance made by the applicant and some other villagers, a crime has been registered against the husband of the informant.

6. Particularly it is brought to our notice that the alleged incident took place on 13.09.2020 around 2.30 p.m. Soon after the

occurrence the informant lady went to the police station and lodged the report. The police have registered non-cognizable offence, copy of which is produced on record. It is evident that the informant has specifically stated about the oral altercation occurred at the relevant time. She has merely stated that applicant no.1 has slapped her and therefore, non-cognizable offence was registered under Sections 323, 504, 506 against applicant no.1 only. Pertinent to note that the said information received first in time by the police merely states about the allegation of slapping that too by applicant no.1 only. In said background, we have examined the contents of the first information report, which was lodged on the following day. This time the informant has improved her version by giving colour of outraging her modesty and also assigned a role to applicant no.2 which was not earlier. Moreover, it reveals that on 13.09.2020 itself, the applicant no.1 has lodged report with the police regarding the same incident which was registered as non-cognizable offence against the informant Manisha Gawande.

7. Taking into account the entire material it is evident that

the informant has considerably improved the story by adding the contents to constitute an offence punishable under Section 354A and foisted applicant no.2 in the occurrence. The earlier report of informant which was registered as N.C. itself depicts the prior information about mere slapping against the applicant no.1 only. On the background of rivalry between the neighbours it can be inferred that in order to take revenge, there is every possibility of concocting the story assigning role to both applicants. The case squarely falls in guideline no.7 as laid down by the Supreme Court in paragraph no.108 of the decision in case of **State of Haryana and others .vrs. Ch. Bhajan Lal and others – AIR 1992 SC 604.**

8. This Court is invested with inherent powers to prevent abuse of the process of Court. The above material discloses that on account of old rivalry, the informant has impleaded both applicants, and if the prosecution is permitted to continue, it would amount to abuse of the process of Court. In view of above, criminal application is required to be allowed, hence, the following order.

ORDER

Rgd.

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- (i) Criminal Application is allowed and disposed of.
- (ii) The charge sheet arising out of first information report bearing Crime No.489/2020 registered with Ramnagar Police Station, Wardha for the offence punishable under Section 354-A, 294, 323 read with Section 34 of the Indian Penal Code as regards applicant no.1, is hereby quashed and set aside.
- (iii) The same first information report bearing Crime No.489/2020 registered with Ramnagar Police Station, Wardha for the offence punishable under Section 354-A, 294, 323 read with Section 34 of the Indian Penal Code is quashed and set aside against the applicant no.2 also.

JUDGE

JUDGE