



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

24 CRIMINAL APPLICATION NO.96 OF 2023

- 1 Subhan Jamsher Tadvī,
Age 82 yrs., Occ. Pensioner,
R/o Plot No.14, Lokesh Nagar, Yawal,
Tq. Yawal, Dist. Jalgaon.
 - 2 Amin Subhan Tadvī,
Age 38 yrs., Occ. Service,
R/o 404, D-Wing, Krishna Heights,
Haji Malang Road, Kalyan East,
Kalyan, Tq. Kalyan, Dist. Thane.
 - 3 Salim Subhan Tadvī,
Age 56 yrs., Occ. Service,
R/o Room No.287, Bhadwad Police Line,
Building No.B-5, Bhadwad,
Bhiwandi, Dist. Thane.
- (Application is withdrawn against applicant
Nos.1 to 3 vide order dated 15.03.2023.)**
- 4 Taslim Subhan Tadvī,
Age 40 yrs., Occ. Service,
R/o Plot No.14, Lokesh Nagar, Yawal,
Tq. Yawal, Dist. Jalgaon.
 - 5 Jaitun Subhan Tadvī,
Age 69 yrs., Occ. Household,
R/o Plot No.14, Lokesh Nagar, Yawal,
Tq. Yawal, Dist. Jalgaon.
 - 6 Nasir Ukhardu Tadvī,
Age 22 yrs., Occ. Business,
R/o Tadvī Wada, Ichakheda,
Tq. Yawal, Dist. Jalgaon.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Yawal,
Tq. Yawal, Dist. Jalgaon.
- 2 Rahima Lukman Tadvī,
Age 45 yrs., Occ. Household,
R/o Virar Nagar, Yawal,
Tq. Yawal, Dist. Jalgaon.

... **Respondents**

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Mr. A.I. Deshmukh, Advocate for applicants

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. A.A. Pawar, Advocate h/f Mr. H.D. Deshmukh, Advocate for respondent
No.2

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 14th FEBRUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashing First Information vide Crime No.307/2021 dated 17.07.2021 registered with Police Station, Yawal, Tq. Yawal, Dist. Jalgaon and by way of amendment for quashing of proceedings in Regular Criminal Case No.35/2023 pending

before learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon, for the offence punishable under Sections 354, 452, 143, 147, 341, 325, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 It will not be out of place to mention here that by order dated 15.03.2023 applicant Nos.1 to 3 had withdrawn the application, however, the matter proceeded for the reliefs claimed by applicant Nos.4 to 6.

3 Heard learned Advocate Mr. A.I. Deshmukh for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. A.A. Pawar holding for learned Advocate Mr. H.D. Deshmukh for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 Perusal of First Information Report would show that in fact, First Information Report was not registered promptly by the police and, therefore, respondent No.2 had filed Miscellaneous Application No.168/2021 for referring the matter for investigation under Section 156(3) of the Code of Criminal Procedure. It came to be allowed on 10.07.2021 and, therefore, First Information Report came to be registered on 17.07.2021. First Information Report consists of two incidences; one that had allegedly taken place around 14.30 hours on 15.05.2021 and another at 17.30 hours on

15.05.2021. It is stated that informant and accused are related to each other and, therefore, know each other very well. Due to the festival of Eid accused Nos.2, 4, 5 and 6 had come to the house of accused No.1. Accused No.3 joined them on 15.05.2021. Informant has son by name Manoj. One Sharif Azad Tadvī had come to the house of informant and asked son of the informant to bring Aadhar card of one Suleman. Therefore, around 3.00 p.m. Manoj had gone to house of Suleman. All the accused persons were present at the house of Suleman and they started asking Manoj that he ought to have declared the account of amount which has been collected for giving it to Maulana from Bilala Masjid. All the accused abused Manoj and assaulted him. Manoj has received covert injury and since the Eid was coming he had not gone to Police Station to lodge any report. However, he informed the said fact to mother informant – respondent No.2. Thus, it is to be noted that as regards allegations in respect of incident dated 14.05.2021 the informant was not the eye witness and Manoj had preferred not to lodge First Information Report/complaint. Even the statement of Manoj that has been taken on 20.07.2021 is on the same line. Therefore, when he had decided not to lodge the First Information Report, at a later point of time because some other incident takes place, whether that can be then agitated that there was previously an incident, is a question. In fact, no specific role has been attributed even by Manoj, rather his statement discloses presence of applicant

No.1 only.

5 In respect of incident dated 15.05.2021 it is stated by informant that around 5.00 to 6.00 p.m. on that day all the accused had come to her house along with wooden strips. There were guests in the house of informant. Accused asked informant as to where Manoj is, asked him to come out. Informant told that he has been beaten by them severely yesterday and, therefore, he is lying down in the house. Then all the accused came inside the house and, upon question, as to why they have entered the house, accused No.2 caught hold of her hand and all the accused in furtherance of their common intention pulled sari from the person of informant, abused her. Accused Nos.3 to 6 pulled the cheek of the informant, thereby outraging her modesty she was assaulted by wooden strip, at that time Manoj got awakened. Accused rushed towards him to assault. Manoj received the blow on his hand. Even the guests in the house of informant pushed and fist blow was given, as a result of which blood started oozing from the mouth of Julekha. Accused No.1 also assaulted witness Joharabee. Then as the chaos raised other witnesses came and separated them. While going the accused persons gave threats.

6 However, if we consider statements of Manoj, Julekha and

Joharabee, then it can be seen that no specific role has been attributed to present applicant Nos.4 to 6. Outraging of modesty cannot be with common intention. Another aspect to be noted is that the present applicant No.1 had lodged First Information Report on 16.05.2021 at 19.51 hours with the same Police Station against Manoj, informant, Julekha, Johara and other four persons, for the offence punishable under Sections 143, 147, 325, 341, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 37(1), 37(3) punishable under Section 135 of the Maharashtra Police Act. Taking into consideration the cross cases, present applicant Nos.4 to 6 appears to have been roped in. When there is absolutely no specific role attributed to them and the presence of these applicants itself has been made doubtful, this would be a fit case to exercise powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) Proceedings in Regular Criminal Case No.35/2023 pending before learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon arising out of First Information vide Crime No.307/2021 dated 17.07.2021 registered with Police Station, Yawal, Tq. Yawal, Dist. Jalgaon, for the offence

punishable under Sections 354, 452, 143, 147, 341, 325, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant Nos.4) **Taslim Subhan Tadv**i, 5) **Jaitun Subhan Tadv**i and 6) **Nasir Ukhardu Tadv**i.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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