



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

34 CRIMINAL APPLICATION NO. 500 OF 2024

Shekh Rasid Shekh Rajak

Age : 56 Years, Occu . Labour

R/o. Kosmet, Tq. Kinwat

Dist. Nanded

.... Applicant

VERSUS

1. The State of Maharashtra,
Through Police Sub-Inspector,
Islapur Police Station Kinwat,
Tq. Kinwat, Dist. Nanded.

2. Raftabi Shaikh Anwar Shaikh
Age : 38 Years, Occu. : Household,
R/o. Kosmet, Tq. Kinwat
Dist. Nanded

.... Respondents

....
Advocate for Applicant : Mr. Raju W. Bagul
APP for Respondent No.1-State : Mr. N.R. Dayama
Advocate for Respondent No.2 : Mr. Shyam C. Arora
....

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

Dated : 04th April 2025

PER COURT :-

1. The present application has been initially filed for
quashment of the First Information Report (for short “the F.I.R.”) vide

C.R. No.0106 of 2023, dated 29.10.2023, registered with Islapur Police Station, Dist. Nanded and later on, by way of amendment, for quashment of the entire proceedings in R.C.C. No.11 of 2024, pending before the learned Judicial Magistrate First Class, Kinwat, Dist. Nanded, for the offences punishable under Sections 354, 452, 294 of the Indian Penal Code, 1860 (for short “the I.P.C.”), in view of filing of the charge-sheet.

2. Today, in the beginning itself, learned APP submitted the daily status in respect of the said case before the learned Judicial Magistrate First Class, Kinwat, wherein it appears that the charge was framed and evidence of four witnesses have been already recorded. The evidence is part heard and summonses have been issued for the further witnesses. We had, therefore, made inquiry with the learned Advocate for the applicant as to why the applicant was allowed to plea for the charge and then, when the accused is present before the concerned Court and his Advocate is remaining present before the said Court, how the evidence of four witnesses have been allowed to be recorded when according to the applicant, there is no evidence against him in the entire charge-sheet. The learned Advocate for the applicant could not satisfy the question. But he insisted that he be allowed to argue.

3. The learned Advocate for the applicant has taken us through the F.I.R. that has been lodged by respondent No.2 and the letter given by the applicant to the District Superintendent of Police, Nanded on 02.11.2023. In the said letter dated 02.11.2023, the present applicant has stated that the F.I.R. has been lodged against him without making any inquiry and it is a false report. He has tried to say that his wife had lodged a report for the offences under Sections 313, 294, 323 of I.P.C. against one Shaikh Anwar Shaikh Abdul. Shaikh Anwar was convicted by the learned Additional Sessions Judge-2, Nanded and sentenced to undergo rigorous imprisonment for one year and to pay fine. The said person has challenged the said conviction before this Court and the said appeal is pending.

4. According to the present applicant, said Shaikh Anwar is insisting and pressurizing him to withdraw the said case. However, when he was not adhering to his request, in order to pressurize him, when he was not in town, through his wife i.e. present respondent No.2, the false F.I.R. has been lodged.

5. A copy of criminal application which is not numbered or might have been numbered, in Criminal Appeal No.37 of 2012, before

this Court which appears to have been made under Section 320 of Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for compounding the offence, has been filed along with the deed of compromise. However, whether any order has been passed in the said criminal application or not has not been clarified by the learned Advocate for the applicant in his submissions.

6. The fact now remains is that there is an F.I.R. lodged by respondent No.2 against the applicant and the charge-sheet i.e. case is pending before the learned Judicial Magistrate First Class, Kinwat. The documents which have been produced i.e. criminal application under Section 320 of Cr.P.C. and the deed of compromise appears to have been prepared somewhere in March 2023 and in April 2023, respectively. In para.6 of the present application, there is no statement as to whether actually the said application was presented after executing the deed of compromise before this Court or not.

7. Now, as per the present F.I.R., the incident had occurred on 27.10.2023. So, there is a gap of about six months in between. We, therefore, cannot infer that, after such long period, still respondent No.2 was insisting upon the compromise and the present F.I.R. is the outcome of some vengeance. The said fact requires the evidence and

the applicant is at liberty to adduce the evidence supporting his said contention. Merely because there is some connection between the persons in the incidences remotely, we cannot arrive at the conclusion that the F.I.R. is due to vengeance and is a false document.

8. When the applicant and his Advocate who is representing him before the learned trial Court appears to have not taken any steps in respect of placing the evidence supporting his contention or that stage is yet to come before the trial Court when evidence is part heard. Even care has not been taken on behalf of the applicant before this Court that he should produce the certified copy of the evidence of the informant i.e. including cross-examination which was conducted on behalf of the applicant. We take that this is not a fit case where we should exercise our powers under Section 482 of Cr.P.C.

9. When in the beginning itself, we had indicated to the learned Advocate for the applicant that since the trial has begun and there was no attempt on the part of the applicant so that either this application can be heard early or before the learned trial Court, when he allowed the matter to proceed, then he ought to have withdrawn this application. We had indicated to the learned Advocate for the applicant that we may impose costs for such conduct. However, we

are refraining ourselves for doing it. Hope the trial would get concluded within a reasonable period. With these observations, the application stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd