



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.537 OF 2024

1 A.B.C.

2 X.Y.Z.

... Applicants

... Versus ...

1 The State of Maharashtra
Through City Police Station,
Sangamner, Tq. Sangamner,
Dist. Ahmednagar.

2 Aruna w/o Sunil Rupvate,
Age 34 yrs., Occ. Household,
R/o Wadekar Galli, Sangamner,
Tq. Sangamner, Dist. Ahmednagar.

... Respondents

...

Applicant No.1 – Party-in-Person for applicants

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

Mr. Joydeep Chatterji, Advocate for respondent No.2

...

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

RESERVED ON : 17th JUNE, 2025

PRONOUNCED ON : 16th JULY, 2025

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

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashment of First Information Report vide Crime No.593/2023 dated 16.07.2023 registered with City Police Station, Sangamner, Tq. Sangamner, Dist. Ahmednagar, for the offence punishable under Sections 452, 323, 504, 506 read with Section 34 of the of the Indian Penal Code, 1860 and later on by way of amendment for quashing the proceedings in Regular Criminal Case No.557/2023 pending before learned Judicial Magistrate First Class, Sangamner.

2 Heard applicant No.1 – Party-in-Person for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. Joydeep Chatterji for respondent No.2.

3 Present applicant No.1 – Party-in-Person submits that applicant No.2 is her mother and applicant No.1 has lodged First Information Report vide Crime No.309/2018, for the offence punishable under Section 376 of the Indian Penal Code against husband of respondent No.2 (**Since applicant No.1 states that she is prosecutrix in the said offence under Section 376 of the Indian Penal Code, we would like to mask the names of applicant Nos.1 and 2.)** She also states that another offence has been lodged at her behest i.e.

Crime No.592/2023 dated 16.07.2023 against respondent No.2 and her husband, for the offence punishable under Section 354, 354(D), 505, 506, 507 read with Section 34 of the Indian Penal Code on 16.07.2023 itself. Therefore, First Information Report that has been lodged by respondent No.2 against applicant is a counterblast and also a pressurizing tactics for her to withdraw the allegations. After giving the facts in her First Information Report for the offence punishable under Section 376 of the Indian Penal Code, applicant No.1 submits that she has been harassed by husband of respondent No.2. Now, in the First Information Report it is tried to be contended that around 5.30 p.m. on 16.07.2023 when respondent No.2 was in the house, applicants entered her house and asked her to give divorce to husband and also threatened her that she should not remain present along with her husband before the Court, on the dates those are given in said Sessions Case, for the offence punishable under Section 376 of the Indian Penal Code. This is rather impossible, for the reason that when applicant No.1 is pursuing her First Information Report and allegations therein, why she would say to respondent No.2 that she should give divorce to her husband. Now, even a witness has been got up by name Nirmala Waghmare, who has stated that after she heard the quarrel from the house of informant – respondent No.2, she found both applicants inside the house and giving threats. Statement of husband of respondent No.2 has also been recorded,

however, he is hearsay witness. The Party-in-Person has produced certain other documents also which are not concerning present case, however, she states that since both applicants have been unnecessarily roped in, it would be an abuse of process of law if they are asked to face the trial.

4 Learned APP as well as learned Advocate for respondent No.2 strongly opposed the application. Learned APP submits that applicants are dragging the case unnecessarily by asking the adjournments of 3-4 months. When applicants themselves say that it is a counterblast to First Information Report lodged by applicant No.1 with the same Police Station, then it is for the trial Court to decide as to which party is giving the correct version. There is an eye witness to the incident and, therefore, case is made out for framing charge before the trial Court. Learned Advocate for respondent No.2 submits that husband of informant is defending himself in Sessions Case, but still it appears that applicant No.1 with some *mala fide* intention is now targeting respondent No.2. Let the two cases i.e. counter cases be tried together.

5 Here, it is to be noted that as per the submission of applicant No.1, she had lodged First Information Report vide Crime No.592/2023 with City Police Station, Sangamner, for the offence punishable under Section 354, 354(D), 507, 504, 506 read with Section 34 of the Indian Penal Code on 16.07.2023 around 16.56 hours. It is against present respondent No.2 –

informant and her husband. Perusal of said First Information Report would show that alleged incident mentioned therein had taken place in front of Sangamner Court premises. Around 12.30 p.m. on 01.07.2023 applicants had come out of Court by attending the date in Sessions Case No.54/2018. That means, the incident stated therein cannot be stated as a counter case to present complaint, wherein respondent No.2 states that this incident had taken place around 5.30 p.m. on 16.07.2023, that too, in her house. She states that after entering her house, both the applicants had given her threat and asked her to give divorce to her husband and she should not remain present along with her husband in the Court. She states that she was assaulted and given threat to kill. Witness Nilima Waghmare in her statement under Section 161 of the Code of Criminal Procedure has supported the informant. Under such circumstance, it will not be proper for this Court to exercise powers under Section 482 of the Code of Criminal Procedure for quashing the proceedings. Whether the case is counterblast or not will then be decided by the concerned Court and it is beyond the scope of this Court under Section 482 of the Code of Criminal Procedure. Now, only on this point that the previous First Information Report has been lodged by present applicant No.1 against husband of respondent No.2 and second First Information Report against informant also would be taken into consideration by concerned Court, but whether it is the reason for wreaking vengeance,

would be decided by the concerned Court, as the evidence to that extent is not before this Court. Application stands rejected.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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