



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 CRIMINAL APPLICATION NO.692 OF 2023

Balasaheb Dattatraya Darekar,
Age 54 yrs., Occ. Agri.,
R/o Arali (Kh), Tq. Tuljapur,
Dist. Osmanabad.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Investigating Officer,
Police Station, Naldurg,
Tq. Tuljapur, Dist. Osmanabad.
- 2 Rekha w/o Balasaheb Darekar,
Age 44 yrs., Occ. Household,
R/o Arali (Kh), Tq. Tuljapur,
Dist. Osmanabad.

... Respondents

...

Mr. A.R. Nikam, Advocate for applicant

Mrs. R.P. Gour, APP for respondent No.1

Mr. Vakil Afzal Hussain M., Advocate (appointed) for respondent No.2

...

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

DATE : 23rd 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 for First Information Report vide Crime No.374/2022 dated 13.11.2022 registered with Police Station, Naldurg, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 307, 324, 323, 504, 506 of the Indian Penal Code, 1860 and later on by way of amendment for quashing Charge Sheet bearing No.68/2023 dated 01.04.2023 arising out of First Information Report vide Crime No.374/2022.

2 Heard learned Advocate Mr. A.R. Nikam for applicant, learned APP Mrs. R.P. Gour for respondent No.1 and learned Advocate Mr. Vakil Afzal Hussain M. for respondent No.2.

3 Learned Advocate appearing for applicant submits that informant is the wife of present applicant. There are disputes between them and First Information Report has been filed with *mala fide* intention. After taking us through First Information Report learned Advocate for applicant submits that as per the informant, dispute started on the point that applicant was insisting that the marriage of his daughter Supriya should be settled with

his nephew (son of sister of applicant). However, it is the statement of record stating that said Sandip, the nephew was already married and, therefore, there was no question of any such proposal by present applicant. No such incident had happened as alleged. There were no injuries caused to the informant. In fact, respondent No.2, son and daughter have caused grave injuries to applicant and his mother Rukminibai. The complaint has been filed by him vide Crime No.375/2022. When there are no injuries, question of attracting the offence under Sections 307, 324 of the Indian Penal Code will not arise. Rest of the sections are non cognizable and, therefore, with this kind of evidence, it would be an abuse of process of law if he is asked to face the trial.

4 Per contra, learned APP for respondent No.1 and learned Advocate Mr. Vakil Afzal Hussain M. appointed to represent the cause of respondent No.2 strongly opposed the application and submitted that in First Information Report respondent No.2 has absolutely not stated that there are disputes between herself and husband. She has stated that around 8.30 a.m. on 10.11.2022 when she herself, applicant, son and daughter were in the house, the applicant started abusing her on the count that why she is objecting to the marriage proposal between their daughter and nephew Sandip. She told that her age is less, but the age difference between their

daughter and nephew would be 12 years and, therefore, she refused the proposal. At that time, the applicant assaulted her and made her to lie on the ground and then tried to strangle her by sitting over her chest. Thereafter he assaulted her with iron rod on her head, which caused bleeding injury. At that time, son and daughter while separating them were asking the applicant as to why he is assaulting. At that time the applicant told that he will not let the informant alive. Even son and daughter were assaulted with brick. When informant shouted, her maternal uncle and distant relatives residing nearby came running and then they were taken to Police Station and then hospital. The investigation is complete and son and daughter are supporting mother. The relatives, who had come to rescue the informant, have also supported her. The Medico Legal Certificate would show that all the three persons had sustained injuries. As regards the informant, she had sustained one simple and another grievous injury. It was left hand fracture of head and middle phalanx and ring finger. Therefore, this is not a fit case where powers under Section 482 of the Code of Criminal Procedure should be exercised.

5 The first and the foremost fact is that First Information Report lodged against present applicant is prior in time and First Information Report which he has lodged against the informant is after the present First Information Report. Now, when it is stated in the First Information Report

that she was tried to be strangled and also injury was caused on the head with iron rod, then it will *prima facie* attract Section 307 of the Indian Penal Code. Even if for the sake of argument we accept that there was some dispute between the husband and wife, but then why the children, who are grown up i.e. aged 21 and 19, should support the mother. Certainly, the incident has taken place in which the informant and children have sustained injuries and, therefore, we do not find this to be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands rejected.
- ii) Fees of the appointed Advocate is quantified at Rs.7,000/- (Rupees Seven Thousand only), to be paid by High Court Legal Services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)