



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1346 OF 2023

1. Soni Shivling Pujari
2. Monali @ Monika Shivling Pujari
3. Rupali Shivling Pujari
4. Raima Shivling Pujari

.. Applicants

Versus

1. State of Maharashtra
Through The Superintendent
of Police, Beed,
Tq. And District Beed.
2. State of Maharashtra
Through the Investigation Officer,
Police Station, Shivaji Nagar,
Beed, Dist. Beed.
3. Shyam Maruti Salve

.. Respondents

...

Mr. G. K. Naik Thigle, Advocate for the applicants.
Mr. A. M. Phule, APP for respondent Nos.1 and 2/State.
Mr. A. L. Kanade, Advocate for respondent No.3.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 22 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the FIR vide Crime No.357 of 2022 dated 27.08.2022 registered with Shivaji Nagar Police Station, District Beed and later on, by way of amendment, for quashing the proceedings in R.C.C. No.202 of 2023 pending

before the learned Chief Judicial Magistrate, Beed for the offences punishable under Sections 327, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. G. K. Naik Thigle for the applicants, learned APP Mr. A. M. Phule for respondent Nos.1 and 2/State and learned Advocate Mr. A. L. Kanade for respondent No.3.

3. It has been vehemently submitted on behalf of the applicants that the applicants are ladies and it is hard to believe that they would have assaulted respondent No.3, who is a male. In fact, on the information lodged by applicant No.2, offence vide Crime No.400 of 2020 was filed with the same police station on 20.10.2020 and after investigation, charge-sheet was produced before the learned Judicial Magistrate First Class, Court No.2, Beed, who had then committed it to the Court of Sessions by order dated 01.07.2022. The father of respondent No.3 had filed Special Civil Suit No.268 of 2016 against one Manohar Bhimrao Sonawane, which is in respect of the plot and his application Exhibit-05 was rejected on 10.08.2016. Thereafter one Shanta Kachru Jadhav and another had filed R.C.S. No.285 of 2020 against the father of respondent No.3, respondent No.3 and the

family members. Thus, respondent No.3 is involved in raising disputes with the neighbours and the incident in question is also alleged to have taken place in front of his house. The incident is stated to have taken place on 20.10.2020, though the FIR has been lodged on 27.08.2022. There is huge delay of about two years in lodging the report which has not been explained at all. Under the said circumstance, it would be a futile exercise to ask the applicants to face the trial.

4. Learned Advocate for the applicants relies on the decision in ***Salib @ Shalu @ Salim Vs. State of U.P. and Ors., [(2023) 11 SCR 58]***, wherein it has been held that “whenever an accused seeks quashing of the FIR or the criminal proceedings essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. It would not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the

averments and, if need be, with due care and circumspection try to read in between the lines. Court is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.”

4. Learned APP as well as learned Advocate for respondent No.3 strongly opposed the application and submits that respondent No.3 had tried to lodge the report, but he came to be arrested in connection with the offence lodged against him and his FIR was not taken. He had given a written complaint on 20.11.2020, but no action was taken and, therefore, he filed the Criminal M.A. No.2504 of 2020 for directions under Section 156(3) of the Code of Criminal Procedure. It appears that after the order was issued and it was communicated to Police Inspector, Shivajinagar Police Station on 24.08.2022, the FIR was lodged. Therefore, there is absolutely no delay in lodging the FIR from the point of view of respondent No.3. Now, it appears that there are cross cases and, therefore, let the trial be held.

5. We fully agree with the submissions on behalf of the respondents. No doubt, present applicant No.2 has lodged the FIR vide Crime No.400 of 2020 against five persons including the

present informant, but it can be seen that respondent No.3 came to be arrested in that matter on the same day. Further, it appears that the present FIR came to be registered in view of order passed by learned Chief Judicial Magistrate and copy of the said order is said to have been received by the police station on 24.08.2022. In Criminal Miscellaneous Application for investigation under Section 156(3) of the Code of Criminal Procedure, it was mentioned that a written complaint was lodged with the police station on 23.11.2020, but no action was taken. The alleged delay can be explained at any point of time. That cannot be the sole ground for quashing the FIR and the proceedings. Now, in this case, the statements of witnesses have been recorded and even the medical certificate of respondent No.3 has been collected, which shows that he was examined medically at 5.50 p.m. on 20.10.2020. He has two injuries one abrasion on left cheek caused within 24 hours, which is simple injury and the second is contused lacerated wound to middle finger of right hand and for that purpose he was advised to get x-ray of right hand done for further opinion, however, then it is stated that the patient absconded. There is injury to respondent No.3 and further it is to be noted that time and place from Crime No.400 of 2020

lodged by applicant No.2 and the present FIR vide Crime No.357 of 2023 are same. As per the prosecution story, in the present case, the informant was assaulted by stone by the applicants so also assaulted with fists, abused and his mobile, credit card and cash of Rs.80,000/- were taken away by applicant No.1. The mobile is stated to be seized from one Suresh Sandipan Indure and his statement has been recorded, who has stated that he had found the said mobile in the village fair. He made inquiry about the owner, but could not get any clue. He had found that mobile in February 2022. The I.M.E.I. number has been matched and its location has been found by the investigating officer. Thus, when there are cross cases, this will not be the fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure. We have taken note of the above-said decision in **Salib @ Shalu @ Salim (Supra)** and that is why taken entire material on record for consideration.

6. For the aforesaid reasons, application stands rejected.

[**ROHIT W. JOSHI**]
JUDGE

[**SMT. VIBHA KANKANWADI**]
JUDGE

scm