



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1229 OF 2020

- 1 Nandlal Kishanrao Lokde,
Age 41 yrs., Occ. Private Service,
R/o Chikna, Tq. Dharmabad,
Dist. Nanded.
A/p Zilla Parishad Campus, Nanded.
- 2 Sunandabai Kishanrao Chaudante,
Age 52 yrs., Occ. Government Service,
R/o Bhavsar Chowk, Nanded.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through it's Investigating Officer,
Police Station, Bhokar,
Tq. Bhokar, Dist. Nanded.
- 2 Pranita d/o Nivrutti Kamble,
Age 35 yrs., Occ. Service as Supervisor
in Panchayat Samiti, Bhokar,
Tq. Bhokar, Dist. Nanded.

... Respondents

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Mr. C.V. Thombre, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. R.R. Kazi, Advocate h/f Mr. G.A. Gadhe, Advocate for respondent No.2

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

RESERVED ON : 03rd FEBRUARY, 2025

PRONOUNCED ON : 04th MARCH, 2025

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

1 Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing proceedings in Regular Criminal Case No.7/2017 pending before learned Judicial Magistrate First Class, Bhokar, Dist. Nanded, arising out of First Information Report vide Crime No.208/2016 dated 13.09.2016 registered with Police Station, Bhokar, Dist. Nanded, for the offence punishable under Sections 353, 327, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. C.V. Thombre for applicants, learned APP Mrs. Priya R. Bharaswadkar for respondent No.1 and learned Advocate Mr. R.R. Kazi holding for learned Advocate Mr. G.A. Gadhe for respondent No.1. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Respondent No.2 is ex-wife of applicant No.1, who had got married to him on 20.02.2012 and they have a daughter. Respondent No.2 alleged that applicant No.1 had subjected her to cruelty and, therefore, she

lodged complaint under Section 498-A of the Indian Penal Code against him. However, as she has been granted divorce by Bhokar Court she started residing with her parents at Bhokar. Respondent No.2 – informant alleges that since the divorce applicant No.1 used to contact informant on phone and by sending people he used to demand the custody of daughter. Informant is serving with Panchayat Samiti, Bhokar. When she was working in her office on 07.09.2016 around 4.00 to 4.30 p.m., applicant No.1 had come along with a lady and they started saying that since the informant has obtained ex-parte divorce she would be eliminated and then she was abused. Informant told applicant No.1 that since now there is no relationship, he should not talk to her. Then, applicant No.1 told that why she is still wearing Mangalsutra and toe-rings of his name when there is no relationship between them, thereby he started assaulting her and forcibly made her to give the Mangalsutra and toe-rings. Applicant No.2 also abused her and asked her to give the custody of daughter. Informant says that when she raised voice, at that time, her maternal uncle came at the spot and tried to catch both applicants but both applicants managed to fled away. She came to know about the name of applicant No.2 later on and, therefore, she lodged report on 13.09.2016.

respondent No.2 was lodging reports against applicant No.1 again and again. She had lodged First Information Report vide Crime No.148/2018 for the offence punishable under Sections 354, 323 and 506 of the Indian Penal Code. The said First Information Report and proceedings in Regular Criminal Case No.91/2018 were quashed and set aside by order of this Court on 27.02.2020. Thereafter, it appears that wife had approached this Court in Writ Petition No.283 of 2019, which was decided on 03.12.2019. Even after the divorce decree passed on 03.05.2016, there are disputes between then husband and wife.

5 As regards the offence in question is concerned, Section 353 of the Indian Penal Code has been invoked. Informant says that she was working in her office at the relevant time, when she was allegedly assaulted, abused by both applicants. However, charge sheet shows that not a single statement of colleagues of informant from the office has been recorded. It is hard to believe that there would not have been a single employee or public in Panchayat Samiti office and she says that she works in Animal Husbandry Department. There are only two statements of witnesses under Section 161 of the Code of Criminal Procedure; one is Babu Narayan Kandhare, who is the maternal uncle of informant and another is Mahendra Nivruttirao Kamble, who is brother of informant. First Information Report is silent about

presence of Mahendra, so also statement of Babu Kandhare is also silent about it, but Mahendra Kamble states that he also went along with maternal uncle. Thus, it is to be noted that First Information Report appears to have been lodged with vengeance and, therefore, it would be unjust to ask both applicants to face the trial. Case is made out for quashing the proceedings. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No.7/2017 pending before learned Judicial Magistrate First Class, Bhokar, Dist. Nanded arising out of First Information Report vide Crime No.208/2016 dated 13.09.2016 registered with Police Station, Bhokar, Dist. Nanded, for the offence punishable under Sections 353, 327, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 stands quashed and set aside as against applicant Nos.1) **Nandlal Kishanrao Lokde** and 2) **Sunandabai Kishanrao Chaudante**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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