



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2301 OF 2023

Bhagwan Trimbak Wagh,
Age. 49 Yrs, Occu. Service,
R/o. Gajanannagar, House No. C-1/40,
Galli No.6, Beside Ganpati Mandir,
Garkheda Parisar, Aurangabad.

...Applicant

Versus

1. The State of Maharashtra
2. Komal Balasaheb Shinde
Age. 25 Yrs, Occu. Education,
R/o. Plot No.C-51, Galli No.7,
Pundliknagar, Aurangabad.

...Respondents

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Mr. Satej S. Jadhav h/f Mr. Rohit Patwardhan, advocate for the
applicant
Mrs. P.R. Bharaswadkar, advocate for the respondent No.1
Mr. A. A. Puranik and Mr. G.V. Ingle, advocates for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATED : 19th MARCH, 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard.
2. The applicant has filed this application for quashing of the
F.I.R. vide C.R. No. 163 of 2023 registered with Pundliknagar police
station, District Aurangabad for the offences punishable under
Sections 327, 452, 323, 504, 506 r.w. 34 of I.P.C. and the

consequential criminal case being R.C.C. No. 256 of 2024, pending before the J.M.F.C. Aurangabad.

3. The respondent No.2 informant averred in the report that civil dispute between the applicant, who is serving in the police department, and respondent No.2, on account of house property, is pending in the civil court at Aurangabad. On 11.5.2023, at about 8.00 p.m. when her mother went to Nashik to meet her sister and the informant was alone, the wife of applicant, aged 50 years old, came to Gajanan Nagar to her house. The wife of the applicant brought three unknown women with her. They broke open the lock of the gate of the house. All women beaten her by hands. She was slapped on her back and stomach. She was beaten by fist and kick blows. They hurled abuses to her. They told that if she is seen anywhere they will eliminate her. When she was recording the said incident in her mobile handset through video shooting, the wife of the applicant and other women caught hold the informant and dragged her on road. She made hue and cry. The persons gathered there rescued her. Thereafter on 12.05.2023, at about 10.00 a.m. the applicant, his wife and son Rushikesh again absued her and threatened to kill her. The son of the applicant Rushikesh tried to throttle her by pressing her neck. The wife of the applicant said that if she go to the police nobody will accept her report. The applicant also abused her at that

time. Therefore, she immediately lodged the report on 12.5.2023.

4. Learned advocate of the applicant submitted that the applicant is falsely implicated in the crime. No such incident took place and the applicant was on duty at the relevant time. He produced an extract of the duty register. Because of the civil litigation between the informant and the applicants is pending, a false report is lodged against him. There is no such evidence of recording of video shooting in the mobile handset as alleged by the informant. There is no reliable evidence of witnesses to establish the ingredients of Sections 327, 452, 323, 504, 506 r.w. 34 of I.P.C. If the applicant is compelled to face the trial on such false material, it would certainly be an abuse of process of the court. Learned advocate therefore, prayed to allow the application by quashing the report and the criminal case.

5. Learned A.P.P. for respondent No.1 - State strongly opposed the application by submitting that the present applicant is serving in police department and at least it is not expected from him to commit such act. Though the applicant has produced the extract of duty register, to support his submission that he was not present at the spot of incident, at the relevant time, however, the scrutiny of the same cannot be conducted at this stage and during course of trial, it

will be scrutinized. The specific role is attributed to the applicant. To prove the offences for which they are booked it is necessary to conduct a full-fledged trial. It is lastly prayed to reject the application.

6. Learned advocate for respondent No.2-informant submits that the name of the applicant is mentioned in the report with specific role attributed to him in respect of abusing and beating. Since civil litigation is going on between the applicant and because of the same, the applicant and his wife threatened the informant at the public place. Learned advocate therefore, prayed to reject the application.

7. A reference can be made to the judgment in the case of ***CBI vs. Aryan Singh, reported in 2023 SCC Online SC 379***, in which the Hon'ble Supreme Court held as under :-

“10. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 of Cr.P.C., the Court is not required to conduct the mini trial.”

8. In case of ***Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17***, the Hon'ble Supreme Court, in paras 9 and 11 of the judgment, has held as under :

“9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added

or subtracted from the recitals thereof, the said FIR could be quashed.

9. We have perused the report and the charge-sheet. On perusal of the statements of witnesses, it is crystal clear that witnesses have stated mostly as per the report of the informant. Though the informant alleged that she was beaten, there is no injury certificate to establish that the informant suffered due to the assault. Only a requisition letter for treatment of the informant is filed on record, however, no injury is noted. Admittedly, civil litigation is pending between the parties. The allegations of abuses though made, are not supported by the material in the charge sheet. Presence of the applicant is shown but except alleged abuses, no role is attributed to him. Other accused are not before this court in present proceeding. The alleged mobile handset and its video shooting is also not filed on record. Whether that mobile handset is seized or not is also not clarified from the report. It is a dispute of civil nature for which litigation is going on. In such circumstances, if the applicant, who was on duty, on the day and time of the incident at the relevant time as per the duty register of the concerned head of department, it is very difficult to accept the case of the informant that the applicant is involved in the said crime. Mere recording the statement and drawing spot panchanama when the civil litigation between the parties is pending is not sufficient to infer the

involvement of the applicant in the said crime. Considering the entire charge sheet, we are of the view that the applicant was on duty at the relevant time on that day and it is established from the extract of duty register produced on record. The essential ingredients of Sections 327, 452, 323, 504, 506 r.w. 34 of I.P.C. are therefore, not establishing against the applicants. In such circumstances, if the applicant is compelled to face the trial, it would certainly be an abuse of process of the court. We are therefore, inclined to allow the application for quashing the report and the criminal case by exercising our inherent powers under section 482 of Cr.P.C. in the interest of justice, to prevent the abuse of process of the Court. The application deserves to be allowed. Hence, the following order:-

O R D E R

- I. Criminal application stands allowed.
- II. The F.I.R. vide C.R. No. 163 of 2023 registered with Pundliknagar police station, District Aurangabad for the offences punishable under Sections 327, 452, 323, 504, 506 r.w. 34 of I.P.C. and the consequential criminal case being R.C.C. No. 256 of 2024, pending before the J.M.F.C. Aurangabad, stand quashed to the extent of present applicant only.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)