



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1896 OF 2021

1. Abdul Majeed Abdul Rahim,
Age 66 years, Occ. Pensioner and
Secretary of Indira Education Society
Parbhani, R/o. Meraj Nagar,
Parbhani, Tq. & Dist. Parbhani
 2. Mohammad Said
Age 33 years, Occ. Service
R/o. Meraj Nagar, Parbhani
Tq. & Dist. Parbhani
 3. Shaikh Mudssir Abdul Aziz,
Age 40 years, Occ. Asst. Teacher,
R/o. Meraj Nagar, Parbhani
Tq. & Dist. Parbhani
- ...Applicants

Versus

1. The State of Maharashtra
Through the Investigating Officer
Police Station Nanalpeth,
District Parbhani
 2. Najmunnisa Begum d/o Abdul Sattar
Age 54 years, Occ. Service as
Headmistress, R/o. Iqbal Nagar
Parbhani, Tq. & Dist. Parbhani
- ...Respondents

.....
Mr. A.M. Inamdar h/f Ms. Fatema S. Kazi, Advocate for applicants
Mr. G.A. Kulkarni, A.P.P. for the respondent No.1
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 21st JULY, 2025**

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

1. Heard learned advocate for the applicants and learned A.P.P. for respondent No.1-State.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the F.I.R. No. 374 of 2021, dated 22.07.2021 registered with Nanalpeth police station, Parbhani, District Parbhani, for the offences punishable under Sections 341, 323, 504 and 506 r.w. 34 of I.P.C. and the consequential criminal proceeding bearing R.C.C. No. 502 of 2021 pending before the learned Chief Judicial Magistrate, Parbhani, District Parbhani.

3. The informant averred in the report that she is Head Mistress of Alphala school, Parbhani. The applicant No.1 is the Secretary of the said school. On 22.07.2021 at about 01.00 p.m. her son Mohmmad Shoyab was dropping her at school on a motor cycle. At that time, all the applicants stopped their motor cycle and hurled abuses at her on account of earlier dispute and manhandled her. The applicants also beat her son. The informant further averred that applicant No.1, being Secretary of the school, frequently used to harass and abuse her. The applicants beat her son with fist and kick blows on his chest and back etc. At that time, they also threatened

her that they will eliminate her. Therefore, the informant lodged the report on 22.07.2021 against the applicants.

4. Learned advocate for the applicants submitted that on the said date and time, the son of the informant had threatened applicant No.1 and therefore, applicant No.1 had also went to police station for lodging the report but the police did not accept the said report, and later on the said report has been registered as N.C.R. No. 326 of 2021. The present complaint has been filed only to harass the applicants, as the averments made in the complaint do not constitute a cognizable offence. By filing the report, the informant is trying to pressurize applicant No.1, who is Secretary of the school, so as to disable him for not taking action against the informant in pursuance to the enquiry report submitted by the Education department. He lastly prayed to quash and set aside the report.

5. Learned A.P.P. for respondent No.1 State submitted that Section 341 of the I.P.C. is a cognizable offence and a full-fledged trial of the said offence is necessary. The offences committed by the applicants are serious in nature as they tried to kill the son of the informant. Therefore, the applicants cannot be exonerated from the criminal liability under Sections 341, 323, 504 and 506 r.w. 34 of I.P.C.. It is lastly prayed to reject the application.

6. Here, it would be apposite to refer to the judgment of Hon'ble Supreme Court in the case of ***N.S. Madhanagopal and others vs. K. Lalitha, (2022) 17 SCC 818***, in which in paras 10 and 11, it is observed as under:-

"10. Section 341 of the IPC talks about punishment for wrongful restraint. Section 341 reads thus:

"341. Punishment for wrongful restraint - Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both."

11. The complaint also fails to disclose the necessary ingredients to constitute the offence of wrongful restraint. In order to attract application of Section 341 which provides for punishment for wrongful restraint, it has to be proved that there was obstruction by the accused; (ii) such obstruction prevented a person from proceeding in a direction to which he had a right to proceed; and (iii) the accused caused such obstruction voluntarily. The obstructor must intend or know or would have reason to believe that the means adopted would cause obstruction to the complainant."

7. We have perused the charge sheet particularly the report and the statements of witnesses. The witnesses have stated in their statements that they saw the incident as stated by the informant.

However, nature of that road, its size i.e. width and length is not stated by the witnesses in their statements. Further, the two witnesses viz. Abdul Jalil and Mohd. Javed have stated similar facts as in the F.I.R. But both statements cannot be relied upon as the informant has not stated about their presence at the spot of incident, at the relevant time. Thus, vague story of alleged incident is stated by the informant and witnesses.

8. As far as the allegations of wrongful restraint of the informant and her son is concerned, the report is too vague and doubtful as to stopping of motor cycle on a public road while she was proceeding with her son, as it is not clarified whether the informant was totally restrained at the open public road at that time. The report or statement of witnesses does not disclose *mens-rea*, which is essential for criminal action, the charge sheet show that on 02.12.2019 the applicant No.3 made an application to the Superintendent of Police, Parbhani alleging that the informant has threatened him that she will lodge the report of outraging of her modesty against him. Further, in Mid-day Meal Scheme, the informant was held liable by the Block Development Officer in the enquiry conducted against the informant, this shows earlier enmity. Further, to establish the essential ingredients of Section 341 of the I.P.C. vague and omnibus allegations are made against the applicants. Therefore, in view of the

observations of the Hon'ble Supreme Court in the case of ***N.S. Madhanagopal and others (supra)*** and on the basis of such vague and general allegations, compelling the applicants to face the trial, would be an abuse of the process of the court. The case is made out for exercise of our powers under section 482 of the Cr.P.C. We are therefore, inclined to allow the application, in the interest of justice and to prevent the abuse of the process of the Court. Hence, the following order:-

O R D E R

- I. The application stands allowed.
- II. The F.I.R. No. 374 of 2021 dated 22.07.2021 registered with Nanalpeth police station, Parbhani, District Parbhani, for the offences punishable under Sections 341, 323, 504 and 506 r.w. 34 of I.P.C. and the consequential criminal proceeding bearing R.C.C. No. 502 of 2021 pending before the learned Chief Judicial Magistrate, Parbhani, District Parbhani, are quashed and set aside to the extent of present applicants.

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

rlj/