IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

904 CRIMINAL APPLICATION NO. 2397 OF 2019

VIDYA W/O. BRIJBHUSHAN GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicant : Mr. Patil Nileshsingh J.
APP for Respondent/State : Mr.G.A. Kulkarni
Advocate for Respondent No.2 : Mr.Venjane Tukaram M.

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CORAM : SMT. VIBHA KANKANWADI AND ROHIT W.JOSHI, JJ.

DATE : 8th JANUARY, 2025.

P.C.:

. Present application has been filed under Section 482 of the Criminal Procedure Code initially for quashing F.I.R., vide CR No.0162/2018 registered with Vivekanand Chowk Police Station, Latur and by way of amendment for quashing proceeding bearing Regular Criminal Case No.1722/2024, for the offence punishable under Section 66 (C) of the Information Technology Act, 2000.

2. Heard Mr.N.J. Patil, learned advocate for the applicant. Learned advocate for the applicant has strenuously submitted that the relationship between the applicant and respondent No.2 is wife and husband. The offence arises out of their matrimonial dispute. Further the F.I.R. is silent as to whether respondent No.2 had received the OTP. Now the charge-sheet is filed, still the link regarding the login has

not been placed, therefore, it would be unjust to ask the applicant to face the trial.

3. Per contra, learned APP submits that the contents of the charge-sheet would suffice to prima facie opinion that the present applicant in order to use the said document had unauthorizedly had access by hacking the password and then downloading the income tax return for the assessment year 2017-2018 and filing it before the Family Court, Aurangabad in a case which she has filed under Section 125 of the Criminal Procedure Code. Therefore, it would be unjust to exercise the powers under Section 482 of the Criminal Procedure Code in the present case.

4. At the outset, we would observe that though the relationship between the applicant and respondent No.2 is that of the wife and husband yet it appears that since 2013, the dispute is going on. The proceeding under Section 125 of the Criminal Procedure Code was filed on 23.11.2015 and prior to that there was proceeding under the Domestic Violence Act. But in the said case under Section 125 of the Criminal Procedure Code, it appears that the applicant has produced the copy of the income tax return and the TDS downloaded print, which according to the informant has been procured by hacking the password from the user ID of Income Tax Department especially

e-Filing Unit, CPC, Bengaluru and then it is stated that all that was down through the mobile number, which was in the name of witness Dushant Shinde, who is the brother-in-law (husband of sister of the applicant). It also appears that Section 201 of the Indian Penal Code has also been added in view of the fact that the mobile number and the SIM Card has been destroyed by the applicant.

5. When there is no prima facie case, this is not fit case where we should exercise our inherent powers under Section 482 of the Criminal Procedure Code. The application stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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