



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3317 OF 2024

1. Ramesh s/o Gangadhar Kardile
Age 38 years, Occ. Medical Practitioner
2. Sham s/o Shivaji Kardile
Age 28 years, Occ. Business,
Both R/o. Village Galle Borgaon
Taluka Khultabad
district Chh. Sambhajinagar ...Applicants
(withdrawn)

Versus

1. The State of Maharashtra
Through Cantonment (Chawani)
Police Station, Chh. Sambhajinagar
2. Manisha w/o Sagar Chavhan
Age 24 years, Occ. Housewife,
R/o. At present Padegaon,
Dwarka Nagar, Cantonment (Chawani)
Chh. Sambhajinagar ...Respondents
District Chh. Sambhajinagar

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Mr. Swapnil Joshi a/w Ms. Sakshi Muley i/b J.P. Legal Associates, for
the applicants
Mr. V.K. Kotecha, A.P.P. for the respondent No.1
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 08th APRIL, 2025**

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

1. This application is filed under Section 482 of the Code of
Criminal Procedure, 1973 (for short "Cr.P.C.") for quashing of First

Information Report (for short "F.I.R.") vide C.R. No. 338 of 2024 registered with Cantonment (Chhavni) police station, District Aurangabad, for the offences punishable under Sections 354-D, 504 and 34 of the Indian Penal Code, 1860 (for short "I.P.C.") and the consequential criminal case bearing R.C.C. No. 2354 of 2024, pending before the learned Judicial Magistrate First Class, Aurangabad.

2. After hearing both sides, when this court showed disinclination to allow application of applicant No. 2, learned advocate for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant No.2-Sham s/o Shivaji Kardile. Leave granted.

3. The informant averred in the report that on 26.06.2024 at about 13.30 hours, she along with her husband Sagar Chavan and son were proceeding by motor cycle bearing No. MH-20-GJ-2197 to their village. When they reached near Hotel Ujwala at Mitmita, it started raining. Her husband parked his motor cycle by the side of road and they went for shelter at a tea stall. At that time, the applicant Dr. Ramesh Kardile came there alongwith Sham Kardile. Sham Kardile took away the motor cycle of the informant's husband without his permission. Thereafter, one Abasheth Chandratike came there

with his car. He asked the husband of the informant to take his son with him. The said Abasaheb Chandratike caught hold of the hand of the informant and pulled her blouse. He told her to come along with him. He told her husband that he will take his wife (informant) with him for one hour and leave her with him (husband of the informant). She felt ashamed. He abused her and went away. Thereafter, the informant, after two days i.e. on 28.6.2024 lodged the report against the applicant and other accused persons.

4. Learned advocate for the applicant submitted that the applicant has been falsely implicated in the crime. At the time of alleged incident, he was not even present at the spot of incident. The applicant has filed an application to the investigating officer to collect the CCTV footage of clinic of applicant No.1, in which he is clearly visible. Learned advocate for the applicant submitted that Section 34 of I.P.C. is not attracted to the present case. The applicant is noway concerned with the crime. Only because co-accused Sham Kardile is involved in the crime, he being the cousin, he has also been falsely implicated in the said crime. He submitted that on such vague and omnibus allegations, if the applicant is compelled to face the trial, it would be an abuse of process of the court. He prayed to quash the report and the charge sheet.

5. Learned A.P.P. for respondent No.1 State strongly opposed the application by submitting that statement of the informant was recorded under Section 164 of the Cr.P.C. before the J.M.F.C., in which she had given details about the incident. He pointed out that Sham Kardile took that vehicle, however, co-accused said to the husband of the informant that he shall leave his wife (informant) with him and after one hour, he will leave her with him (husband of the informant). He submitted that the applicant is involved in a serious crime. He therefore, prayed to reject the application.

6. ***In Naresh Aneja vs. State of Uttar Pradesh and Ors.*** (02.01.2025 - SC) : MANU/SC/0012/2025, the Hon'ble Supreme Court in para 16.2 observed that the scope of this power is best remembered in the words of Y.V Chandrachud J. (as His Lordship then was) writing for the Court in **State of Karnataka v. L. Muniswamy (1977) 2 SCC 699**, wherein it was observed that:-

"7... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the

proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

7. In the case of **Ahmad Ali Quraishi and Ors. vs. The State of Uttar Pradesh and Ors. (30.01.2020 - SC) : MANU/SC/0104/2020**, in para 13 the Hon'ble Supreme Court observed as under:-

*"13. A three-Judge Bench in **State of Karnataka v. M. Devendrappa**, (2002) 3 SCC 89, had the occasion to consider the ambit of Section 482 Code of Criminal Procedure. By analysing the scope of Section 482 Code of Criminal Procedure, this Court laid down that authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent abuse. It further held that Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice."*

8. We have perused the report and the charge sheet. On perusal of report and the charge sheet, particularly statements of the witnesses, it is crystal clear that Sham Kardile and Abasheth Chandratike have committed criminal mischief of outraging modesty

of the informant. In a public place, he has pulled her by her hand and her blouse. Abasaheb Chandratike told the informant to come alone alongwith him. However, in the statement of the informant, recorded before the J.M.F.C. she has stated that thereafter, they went to visit brother of Sham Kardile i.e. the applicant Dr. Ramesh Kardile and told him entire incident. This shows that the applicant was not present at the spot of incident. Thus, it is crystal clear that he has been falsely implicated in the crime. In such circumstances, if the applicant is compelled to face the trial, it would certainly be an abuse of 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, to prevent abuse of process of the Court. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The application of applicant No.2-Sham Shivaji Kardile stands dismissed as withdrawn.
- II. The F.I.R. vide C.R. No. 338 of 2024, dated 28.06.2024, registered with Cantonment (Chhavni) police station, Aurangabad, District Aurangabad for the offences punishable under Sections 354-D, 504 r.w. 34 of I.P.C. and the

consequential criminal case bearing R.C.C. No. 2354 of 2024 pending before the learned Judicial Magistrate First Class, Aurangabad stand quashed to the extent of applicant No.1- Ramesh s/o Gangadhar Kardile.

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

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