



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3087 OF 2023

Dnyanranjan Kedarprasad Chaudhari,
Age-41 years, Occu:Nil,
R/o-Dr. Upendra Land,
Arsande Kanke Block, Ranchi,
Jharkhand (State)

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through: Police Station Pundlik Nagar,
Tq and Dist-Aurangabad,
- 2) Vidya Bhagwan Irале,
Age-58 years, Occu:Household,
R/o-C-34, Sanjog, N-4, C-34,
Cidco, Aurangabad.

...RESPONDENTS

...
Mr. J.V. Deshpande Advocate for Applicant.
Mr. V.K. Kotecha, A.P.P. for Respondent No.1.
Mr. Mukul Kulkarni Advocate h/f. Mr. U.G. Mitkari Advocate
for Respondent No.2.

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

DATE : 2nd JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 482 of the

Code of Criminal Procedure for quashing the proceedings in R.C.C. No.704 of 2019 pending before the learned Judicial Magistrate First Class, Aurangabad arising out of the First Information Report (for short "the FIR") vide Crime No. 68 of 2018 dated 17th March 2018 registered with Pundlik Nagar Police Station, Aurangabad for the offence punishable under Sections 354-D, 419, 501 of the Indian Penal Code and Section 66D of the Information Technology Act.

2. Heard learned Advocate Mr. Deshpande for the applicant, learned APP Mr. Kotecha for respondent No.1 and learned Advocate Mr. Kulkarni holding for learned Advocate Mr. Mitkari for respondent No.2.

3. Learned Advocate for the applicant has vehemently submitted that the informant has intentionally suppressed that the present applicant is her son-in-law. Applicant got married to the daughter of the informant, however, now the relationship got strained. Perusal of the FIR will not attract the offences under which the FIR has been registered. Section 354-D of the Indian Penal Code is not attracted as there was no stalking i.e. monitoring the use of internet by the informant or the use of

email. Section 419 of the Indian Penal Code deals with the punishment for cheating by personation, but the allegations are not that the applicant had appeared physically before any authority thereby impersonating the informant. Section 501 of the Indian Penal Code is non-cognizable. Offence under Section 66D of the Information Technology Act deals with punishment for cheating by personation by using a computer resource. There is no such evidence that has been collected in this respect. It would be unjust to ask the applicant to face the trial, who resides at Ranchi in Jharkhand.

4. Per contra, the learned APP strongly opposed the application and submitted that the applicant is not remaining present before the Court and therefore non-bailable warrant has been issued against him and therefore, inherent powers need not be exercised in his favour. There is evidence against the applicant which reveals that a fake email ID to defame the informant's husband and son was created from the IP address of the computer device used by the applicant. Learned Advocate for respondent No.2 has taken us through the charge-sheet as well as the affidavit-in-reply by the informant. It is stated that the applicant is involved in three other criminal cases also wherein

he is not appearing before the Courts. Deliberately the applicant is giving wrong addresses. By creating a fake email ID the applicant reported the said complaint on the Government portal "My Government" making allegations against the informant, her husband and son. It was even alleged that the informant and family members are involved in prostitution and human trafficking, thereby the family is tried to be defamed. It was also then stated that the family members of the informant have accumulated disproportionate assets. Such fake complaint has been uploaded and therefore, this cannot be taken as a fit case to quash the proceedings when there is a evidence.

5. At the outset, we would like to say that when the applicant is not remaining present before the Court though it appears that he has been released on bail on condition and then now the non-bailable warrant has been issued against him, we do not take this to be a fit case where we should exercise our inherent powers. The person who abides by the law, can be given legal protection or relief that is contended under the law. On this ground itself we would dismiss the application.

6. Though the contents of the FIR and the statements of witnesses under Section 161 of the Code of Criminal Procedure may not attract Section 354-D and 419 of the Indian Penal Code strictly, but certainly Section 66D of the Information Technology Act is attracted. This Section deals with the punishment for cheating by personation using a computer resource and the said Section includes Cyber crime, creating fake face book / social media profiles, unauthorized access to another person's account etc. There is an investigation which shows that the said email ID was generated from the IP address of the computer device of the applicant and if the contents of the email are taken into consideration, then prima facie, it attracts Section 501 of the Indian Penal Code. Further, we may also observe that the learned Magistrate, before whom the case is pending, is having ample power to consider as to whether any other offences are also made out. Therefore, this is not a fit case where we can exercise our inherent powers.

7. The Application stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE