



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3160 OF 2023

- 1) Ashok S/o Manaji Bharshankar,
Age-51 years, Occu:Agri.,
R/o-Kannad, Tq-Shelu,
District-Parbhani,
- 2) Shilpa w/o Ashok Bharshankar,
Age-46 years, Occu:Anganwadi Service,
R/o-Kannad, Tq-Shelu,
District-Parbhani.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Bori Police Station,
Tq-Jintur, District-Parbhani,
- 2) Chaya W/o Madhav Bharshankar,
Age-51 years, Occu:Nil,
R/o-Kannad, Tq-Shelu,
District-Parbhani.

...RESPONDENTS

...
Mr. Vinod S. Salve Advocate for Applicants.
Mr. V.K. Kotecha, A.P.P. for Respondent No.1
None present for Respondent No.2 though served.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 19th MARCH, 2025

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

1. Present Application has been filed, initially for quashing the First Information Report (for short "the FIR") vide Crime No. 138 of 2023 registered with Bori Police Station, District Parbhani on 12th July 2023 for the offence punishable under Sections 354, 504 read with Section 34 of the Indian Penal Code and by way of amendment, for quashing the proceedings in R.C.C. No. 190 of 2023 pending before the learned 1st Judicial Magistrate First Class, Shelu, District-Parbhani.

2. Heard learned Advocate Mr. Salve for the applicants, and learned APP Mr. Kotecha for respondent No.1. In order to cut short, it can be stated that the learned Advocates for respective parties have argued in support of their contentions.

3. Respondent No.2 has filed the present FIR stating that her family had sold Soybean worth Rs.95,000/- to applicant No.1. Applicant No.1 had given amount of Rs.30,000/- immediately in cash towards the purchase of Soybean and she states that it was agreed that the remaining amount would be given within two months from the date of transaction. Thereafter also present

applicant No.1 had given amount of Rs.40,000/- within two months to the son of the informant. But then, still she states that amount of Rs.55,000/- was remaining towards said price which was promised by applicant No.1 to be given within two months thereafter. But then even after passage of one year, applicant No.1 had not given that amount. Respondent No.2 further states that she herself and her husband had gone to their native place Kanhad on 26th June 2023. On 8th July 2023, around 7.30 a.m., informant went to the house of the applicants to demand the said amount of Rs.55,000/- and at that time both the applicants were present in the house. She demanded the said amount of Rs.55,000/- but applicant No.1 told her that he is not having the amount but he would give it within one month. Then informant told him that since one year he is promising but has not given the said amount, when he would give it finally. At that time applicant No.1 asked her to get out of the house and he will not give the amount and then by ill-intention he caught hold of her arm and dragged her out of the house. He pulled her blouse. Applicant No.2 pulled the hairs of the informant and abused her in filthy language.

4. Perusal of the charge-sheet would show that there was

absolutely no eye witness to the incident. One Vilas Ramrao Bharshankar states that he went to house of applicant No.1 after hearing the raised voices and found the informant there. He states that even the husband of the informant was present there and then the informant narrated him the incident. That means, he is not the eye witness. As per the statement of the informant's husband, the incident appears to have taken place in the evening because he says that he was in the house in the evening of 8th July 2023 and his wife went to the house of applicant No.1 around 7.30 p.m. and returned after some time and narrated the incident. That means, husband of the informant was absolutely not present at all at the place of incident and then he contradicts the statement of Vilas Bharshankar.

5. Here, admittedly some amount was due as per the contention of the informant. In fact, there also the mathematics of the informant appears to be not correct taking into consideration the price of the Soybean that was sold and what amount she has received and at the most the balance will be Rs.25,000/- and not Rs.55,000/-. The FIR appears to be filed with *mala fide* intention, may be to get the remaining amount recovered and therefore, it would be an abuse of process of law

to ask both the applicants to face the trial. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No. 190 of 2023 of pending before the learned 1st Judicial Magistrate First Class, Shelu, District-Parbhani, arising out of the the First Information Report vide Crime No. 138 of 2023 registered with Bori Police Station, District Parbhani on 12th July 2023 for the offence punishable under Sections 354, 504 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 1 and 2, i.e. - 1) Ashok S/o Manaji Bharshankar and 2) Shilpa w/o Ashok Bharshankar.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25