



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

CRIMINAL WRIT PETITION NO.1752 OF 2023

Shamkumar s/o Devanand Purbhe,
Age : 38 years, Occu.: Labour work,
R/o.: Masrul, Tal. & Dist.: Buldhana PETITIONER
(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Kadim-Jalna Police Station,
Jalna, Ta. & Dist. Jalna
2. Soni w/o Ganesh Adiyal,
Age : 39 years, Occu.: Labour work,
R/o.: Sonal Nagar, Jalna,
Tal. & Dist. Jalna,
At present R/o.: Datta Deshmukh
Nagar, Bidi Kamgarvasahat,
Sangamner, Tal. Sangamner,
District : Ahmednagar RESPONDENTS

....
Mr. K. N. Shermale, Advocate for the Petitioner
Mr. A. S. Shinde, APP for Respondent No.1-State
Advocate for Respondent No.2 : Party-in-person
....

**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

RESERVED ON : 13/08/2025

PRONOUNCED ON : 25/08/2025

JUDGMENT : (PER : SANDIPKUMAR C. MORE, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with
the consent of the parties.

2. By way of this petition filed under Articles 226 and 227 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973, the petitioner is seeking quashment of FIR 0015 of 2022 dated 17/01/2022, registered against him in Kadim-Jalna Police Station in connection with offence under Section 436 of IPC, which has been lodged against him at the instance of present respondent No.2 i.e. complainant. The petitioner has also sought quashment of proceedings of Sessions Case No.342 of 2023 arose from the aforesaid FIR, which is pending before the learned Additional Sessions Judge, Jalna.

3. On perusal of the FIR lodged by respondent No.2, it reveals that her husband Ganesh Adiyal was acquainted with the present petitioner. However, unfortunately, he died on 01/04/2021 leaving behind respondent No.2- wife, two daughters, Arpita and Shradha. On account of death of her husband, respondent No.2 received an amount of Rs.34,51,516/-. After death of her husband the relatives of the petitioner insisted respondent No.2 for performing second marriage with the petitioner, but the relatives of respondent No.2 refused the said proposal. Further according to respondent No.2, the petitioner established fiduciary relations with her and cheated her by transferring huge amount of Rs.28,94,500/- from time to time from her account to his account. As such, respondent No.2 had filed a report against the petitioner and his relatives in

Dhad Police Station, District Buldhana. Accordingly, Crime No.399 of 2021 for the offence punishable under Sections 420 & 506 r.w. 34 of IPC was registered against the petitioner, which was subsequently transferred to Kadim-Jalna Police Station, Jalna.

4. However, thereafter on 09/01/2022 while respondent No.2 was at Sangamner, she received a call on her mobile from one Mohan Kundlikar, resident of Jalna at about 10.00 a.m. It was informed to her on the said call that door of her house at Jalna alongwith quilt in the house was burnt by some unknown person and one poster was also affixed on the wall of her house. Respondent No.2 when went to her house at Sonal Nagar, Jalna on 17/01/2022, she found the door of her house in partially burnt condition and something was burnt in the rooms of said house. She found one poster affixed on the wall adjacent to the door as if it was written by her husband. Therefore, respondent No.2 lodged report against the present petitioner alongwith other persons namely Akshay Mandave and Jairam Patil.

5. In view of the report, the police authorities of Kadim-Jalna Police Station lodged the aforesaid FIR and on completion of investigation, filed charge sheet bearing Sessions Case No.209 of 2023.

6. Learned counsel for the petitioner submits that there is no case made out against the petitioner since the FIR lodged by respondent No.2, is full of false accusations and lodged only to harass and blackmail the petitioner with *mala fide* intention. According to him, the FIR appears to be lodged only on the basis of suspicion and even after thorough investigation, there is no material on record to connect the present petitioner to the alleged criminal act of setting the house of respondent No.2 on fire. As such, he prayed for quashing of FIR alongwith proceedings arising out of the same.

7. On the contrary, learned APP strongly opposes the submissions made on behalf of the petitioner. Learned APP pointed out that respondent No.2 had already filed one crime against the petitioner alleging that the petitioner and his relatives cheated her by taking out huge amount from her account, which she had received on account of death of her husband. Thus, the learned APP submits that considering the conduct of the petitioner, it would be rather unsafe to quash the FIR and subsequent proceedings.

8. Respondent No.2, who appeared as a party in person, also strongly opposed the submissions by adopting the submissions of learned APP. According to her, the petitioner had taken

disadvantage of her helpless condition and extracted huge amount from her and thereby cheated her. Thus, she also prayed for dismissal of the petition.

9. Heard rival submissions. Also perused the entire documents on record.

10. Admittedly, charge sheet has been filed in the instant case. However, in the case of ***State of Haryana and others vs. Ch. Bhajan Lal and others*** reported in ***AIR 1992 SC 604***, the Hon'ble Supreme Court has laid down certain guidelines as to in what cases and in what manner the powers of quashing the F.I.R. under Section 482 of Cr.P.C. can be exercised. We would like to reproduce those guidelines herein below :

- “(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer

without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

11. As per the aforesaid guidelines, it is cautioned that powers under section 482 of Cr.P.C. for quashing the FIR, are to be used sparingly. Further, it has been also observed that even if the contents of the FIR are taken as proved and then no offence as alleged is made out then only such quashing is permissible. Further, it is also observed that if the absurd allegations in the FIR are made without any supporting material, then also the FIR can be quashed.

12 In the instant case, FIR appears to be lodged merely on suspicion since respondent No.2 had lodged a report against the present petitioner and his relatives on account of her cheating as

mentioned in the FIR. However, it is to be noted that even after the thorough investigation, no reliable material has been found, which could connect the petitioner with the alleged crime. On going through the statements of the witnesses recorded during investigation, who resided nearby to the house of respondent No.2, it reveals that nobody from the people residing nearby, had seen the act of setting the house of respondent No.2 on fire. Nobody has stated that he saw any person having suspicious conduct, near the said house. Thus, it reveals that the FIR appears to be lodged merely on suspicion. As such, for want of reliable material on record, which can connect the petitioner with the alleged crime, we are of the considered opinion that the guidelines for quashing the FIR as laid down by the Hon'ble Apex Court in the case of ***Haryana and others vs. Ch. Bhajan Lal and others*** (*supra*) are required to be followed.

13. For the aforesaid reasons, the petition deserves to be allowed. Hence, the following order:

ORDER

1. Criminal Writ Petition is allowed.
2. First Information Report in Crime No.0015 of 2022 registered with registered with Kadim-Jalna Police Station, Jalna, District Jalna & proceedings

of Sessions Case No.342 of 2023, arising out of it
& pending before the learned Additional Sessions
Judge, Jalna, are quashed and set aside.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)

VS Maind/-