



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4906 OF 2021

1. Mr. Deepak Shivaji Bidkar	)	
Age – 42 years, Occ : Service,	)	
R/at – Sakore Tal. - Ambegaon,	)	
Dist. - Pune	)	
2. Mr. Chandrashekhar Dattatray Hule	)	
Age-51 years, Occ : Secretary,	)	
R/at-Borivali, Dahisar, Borivali, Mumbai.	)	
3. Sau. Sangeeta Chandrashekhar Hule	)	
Age-48 years, Occu :	)	
R/at- Borivali, Dahisar, Borivali, Mumbai	)	...Petitioners

Vs.

1. The State Of Maharashtra	)	
Through P.S.I. Godegaon Police Station,	)	
Dist. - Pune (Notice to be served on the	)	
A.P.P. High Court Mumbai.)	)	
2. Mrs. Shubhangi Ramdas Mate @	)	
Shubhangi Shankar Tavare	)	
R/at-In front of Tahsil office, Sanskar	)	
Laxmi prestige, “C” Wing, Room No.102,	)	
Ghoegaon Tal – Ambegaon, Dist.-Pune.	)	...Respondents

WITH
INTERIM APPLICATION NO. 967 OF 2024
IN
CRIMINAL WRIT PETITION NO. 4906 OF 2021

Mrs. Shubhangi Ramdas Mate @)
Shubhangi Shankar Tavare)
Age – 43 years, Occ. - Service,)
R/at-In front of Tahsil office, Sanskar)
Laxmi prestige, “C” Wing, Room No.102,)
Ghoegaon Tal – Ambegaon, Dist.-Pune.) ...Applicant
(Ori. Respondent No.2/Complainant)

In the matter between

1. Mr. Deepak Shivaji Bidkar)
Age – 42 years, Occ : Service,)
R/at – Sakore Tal. - Ambegaon,)
Dist. - Pune)
2. Mr. Chandrashekhar Dattatray Hule)
Age-51 years, Occ – Secretary,)
R/at-Borivali, Dahisar, Borivali, Mumbai.)
3. Sau. Sangeeta Chandrashekhar Hule)
Age-48 years, Occu-)
R/at- Borivali, Dahisar, Borivali, Mumbai) ...Petitioners

Vs.

1. The State Of Maharashtra)
Through P.S.I. Godegaon Police Station,)
Dist. - Pune (Notice to be served on the)
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2. Mrs. Shubhangi Ramdas Mate @)
 Shubhangi Shankar Taware)
 R/at-In front of Tahsil office, Sanskar)
 Laxmi prestige, "C" Wing, Room No.102,)
 Ghodegaon Tal – Ambegaon, Dist.-Pune.) ...Respondents

Mr. Rajaram V. Bansode a/w. Ms. Sheetal M. Ubale, for Petitioners.

Smt. Anamika Malhotra, APP for the Respondent No.1-State.

Mr. Uday B. Nighot, for respondent no.2.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

RESERVED ON : 9th June 2025.

PRONOUNCED ON : 17th July 2025.

JUDGMENT (Per : RAJESH S. PATIL, J.) :-

- 1) Present Petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, seeking quashing of Sessions Case No. 20 of 2022, pending before the 4th District and Additional Sessions Judge, Khed, Pune, arising out of C. R.No. 90/2021 dated 12th April 2021 registered with Ghodegaon Police Station (Pune Rural) for an offence punishable under Section 376, 376(2)(n), 506 read with Section 34 of the Indian Penal Code.
- 2) Present Petition was admitted by an Order dated 8th August 2023 and interim relief in terms of prayer clause (b)(i) was granted.

Pursuant to which there was stay to the proceedings of Sessions Case No.20 of 2022 pending before the 4th District Judge & Additional Sessions Judge, Khed, Pune.

3) It is alleged in the First Information Report (FIR) by the informant that, she was working in S. M. Joshi Residential School, Naroli, so also, her husband was working as a teacher in the said school. In the year 2011, Petitioner No.1 was Headmaster of the School. On 20th April 2011, though it was a public holiday, yet Petitioner No.1 called informant to school, under a false pretext. As informant went to the school, Petitioner No.1 took her to a room in the school and committed rape on her. It is further alleged that, Petitioner No.1 threatened informant that, since he was the Headmaster, he would remove informant from the employment of the School. It is also alleged that, after the said incident, Petitioner No.1 repeatedly committed rape on informant. The FIR further mentions that, the informant narrated this fact to her husband. In turn, the husband of informant informed the Management of the school about the offence committed by the Headmaster.

3.1) The husband of informant was warned by the school that, he should not inform the police. The informant and her husband were threatened that, if they lodged any complaint, they would be removed from their services. The FIR further mentions that, the co-accused/Petitioner No.2, had also committed rape on informant from the year 2015 onwards

till the year 2020. It is further alleged that, in fact Petitioner No.3, who is the wife of Petitioner No.2 had also helped Petitioner No.2 in committing the said offence.

4) By an Order dated 11th June 2021, the learned Single Judge of this Court allowed the pre-arrest bail application of Petitioner No.1 and by an Order dated 18th June 2021 had allowed the pre-arrest bail application of Petitioner Nos.2 and 3.

5) It is the case of Petitioners that, the alleged offence as mentioned by informant as regards Petitioner No.1 could not be imagined to have happened since it was not a holiday on 20th April 2011. Further, in a Residential School, there are always students and staff present in the school premises. The husband of informant had taken up a loan from a Credit Society, to which Petitioner Nos.1 and 2 were the Guarantors. In order to avoid payment of the loan, a false FIR has been lodged by informant against Petitioners. The informant's husband had executed an Agreement dated 17th August 2020, wherein he accepted to make payment to Petitioner No.2. The witness to the said Agreement was Petitioner No.1. However, the cheque issued by the husband of informant was dishonored on presentation. Petitioner No.2 had issued a Notice dated 6th April 2021, as regards dishonor of cheque. Only thereafter, on 12th April 2021, the FIR had been lodged, belatedly for alleged offences of the year 2011 and 2015.

6) Learned APP and learned Advocate appearing for informant

opposed the Petition. It is vehemently submitted, based on the allegations made in the FIR, evidence has to be led and without leading evidence only on the basis of statements, the FIR cannot be quashed.

7) We have heard the submissions of learned Advocates appearing before us and have gone through the documents on record.

7.1) The FIR has been lodged on 12th April 2021 for an offence alleged to have been committed as regards Petitioner No.1 on 20th April 2011 and as regards Petitioner No.2, from 2015 onwards till 2020. It appears that no steps were taken for a long period by the informant to lodge crime immediately or within reasonable period and there is a huge unexplained delay in lodging the FIR.

7.2) The fact remains that, the husband of informant had taken loan from a Credit Society, wherein Petitioner Nos.1 and 2 were Guarantors. There was default in payment of the loan amount and subsequently, there was an agreement executed by informant's husband wherein he accepted that, he would make payment to Petitioner No.2. The cheques amounting to Rs.5,80,000/- issued in this regard, by the husband of informant were dishonored and a Notice dated 6th April 2021 was issued by Petitioner No.2's Advocate. Immediately, thereafter FIR has been lodged on 12th April 2021. Therefore, we find that there is force in the submissions of Petitioners that, the FIR was nothing but the counterblast to the cheque dishonour Notice issued by Petitioner No.2.

7.3) The informant's allegation as regards to Petitioner No.1 calling her on a public holiday to the school and committing rape on her, appears to be a palpable lie, since the date mentioned in the FIR i.e. 20th April 2011, was not a holiday and the school being a residential school, it is difficult to believe that Petitioner No.1 committed rape when students and staff were present within the school premises.

7.4) Surprisingly, in the FIR the wife of Petitioner No.2 i.e. Petitioner No.3, has been mentioned as a person who has supported Petitioner No.2 in the alleged offence committed under Sections 376, 376(2) (n), 506 read with Section 34 of the Indian Penal Code. From perusal of the FIR and charge-sheet, in our opinion, it cannot be said that any of the requirements of Section 376, 376 (2) (n), 506 read with 34 of the Indian Penal Code are made out against Petitioners/Accused persons. Except bald statement that the Accused have committed the offence, there is not even iota of material to substantiate the basic allegation. The allegations in the FIR appears to us, to be totally improbable.

8) The Supreme Court in the case of *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*, AIR 1992 SC 604 in paragraph No.102 has given category of cases wherein the extraordinary powers of the Courts under Article 226 or inherent powers under Section 482 of the Code of Criminal Procedure, can be exercised to prevent abuse of process or to secure the ends of justice. In our view, the Ground Nos.5 and 7 of paragraph No.102,

would be applicable to the present proceedings. The said Ground No.5 and Ground No.7 reads as under:-

(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.

(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.

9) In a recent decision of the Supreme Court in *Abhishek versus State of Madhya Pradesh* reported in (2023) 16 SCC 666, the Supreme Court followed the decision of *Ch. Bhajan Lal* (supra) and held that, it was not enough for the Court to look into the averment made in the FIR alone, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the averments made and if need be with due care and circumspection to try and read between the lines.

10) Taking into consideration the allegations made in the FIR, we don't find sufficient grounds and/or reasons for proceeding against Petitioners. The fact that the husband of informant had defaulted the loan of Credit Society, for which Petitioner Nos.1 and 2 were guarantors, we are of the view that after the cheques issued by the husband of informant were

bounced, the FIR was lodged, only out of retaliation, for an alleged offence committed 10 years ago. It is also pertinent to note that Petitioner No.3 is wife of Petitioner No.2 and she has also been charged with offence punishable under Sections 376, 376(2)(n) read with 34 of the IPC for having helped her husband to commit the crime. In the entire FIR, nothing is stated as to why Petitioner No.3 allegedly helped her husband to commit the crime for around five years ago and the FIR being lodged after much delay. We are therefore satisfied that the prosecution has not made out any case against Petitioners for any of the alleged offences.

11) We find merits in this Petition, hence the same stands allowed in terms of prayer clauses (a), a(i) and a(ii).

11.1) The FIR No.90 of 2021, R.C.C. No.203/2021 and Sessions Case No.20 of 2022 pending before the 4th District Judge-II & Additional Sessions Judge, Khed, Pune, stands quashed.

12) In sequel, the pending Interim Application No.967 of 2024 is also disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)