



Judgment

496 apl371.22

1

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.371 OF 2022

1. Mahavir s/o Davalji Nagrale,
aged about 69 years, occupation – retired.

2. Kamal w/o Mahavir Nagrale,
aged about 65 years, occupation – retired.

Both r/o Vihar Housing
Society, Yashwant Nagar, Telco
Road, Pimpri, Pune – 411018. **Applicants.**

:: VERSUS ::

1. State of Maharashtra, through
Police Station Officer,
Police Station Frezarpura,
Amravati, District Amravati.

2. Achal d/o Sanjay Pohekar,
aged about 23 years,
r/o c/o Sanjay Belsare,
Kailas Nagar, Mahadev Khorl,
Amravati, taluka and district
Amravati. **Non-applicants.**

**Shri P.R.Agrawal, Counsel for the Applicants.
Mrs.S.V.Kolhe, Addl.PP. for the NA No.1/State.
Shri D.N.Mudgate, Counsel for NA No.2/Complainant.**

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 10/11/2025
PRONOUNCED ON : 13/11/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. The present application under Section 482 of the CrPC is filed for quashing FIR bearing registration No.61/2019 registered under Sections 452, 323, 504, and 506 read with 34 of the IPC and consequent proceeding arising out of the same i.e. RCC No.740/2019.

2. As per the case of the prosecution, the crime is registered on the basis of a report lodged by non-applicant No.2 Achal d/o Sanjay Pohekar (the complainant). As per her report, after death of her grandmother, applicant No.2 fraudulently mutated her own name in the property of the grandmother of the complainant. The applicants were time and again insisting the complainant to vacate the said premises. On

3

16.1.2019, at about 12:00 noon, when the complainant was at her residence, one Suwarna Athawale along with co-accused came to her house and insisted her to vacate the said premises as the said property has been purchased by her. They slapped the complainant and informed her that they are getting the premises vacated at the instance of the applicants. On the basis of the said report, the police have registered the crime against the applicants.

3. Heard learned counsel Shri P.R.Agrawal for the applicants; learned Additional Public Prosecutor Mrs.S.V.Kolhe for the State, and learned counsel Shri D.N.Mudgate for the non-applicant No.2/complainant.

4. Learned counsel for the applicants submitted that the allegations made in the FIR are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there are grounds for proceeding against the applicants. He

4

submitted that the allegations in the FIR nowhere show presence of the applicants. Merely on the basis of statements of the co-accused, they are implicated in the alleged offence. He further invited our attention to a fact that there is a dispute between the applicants and the complainant in respect of constructed house on plot No.42 of survey No.87 situated at Mouza Wadali, Pragane Nandgaon Peth, taluka and district Amravati admeasuring 1200 square feet situated within the limits of Municipal Corporation, Amravati having its Municipal Corporation Property No.909. The said property was purchased by the mother of applicant No.2 by name Alokabai Kisanrao Pohekar by registered sale deed dated 5.1.1967 from one Vyankatrao Tukaramji Borkar and during her life time, she enjoyed the property as an absolute owner thereof. Father of applicant No.2 Kisanrao Pohekar was in Government Service and retired in the year 1974. The

5

marriage between the applicants was solemnized on 12.6.1977 and since then applicant No.1 is resident of Pune and staying at Pune since their marriage. The complainant claims to be daughter of Sanjay Kisanrao Pohekar and it is her claim that Sanjay Pohekar is son of Kisanrao Pohekar. The father of the complainant, as per the applicants, was not a real son of Kisanrao. Thus, relationship between the applicants and the complainant is in dispute and the same is subject-matter, which can be examined in civil proceeding. It is submitted that due to the property dispute, the applicants are implicated in the alleged offence.

5. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the contentions and submitted that considering investigation carried out by the investigating officer, the statements of eyewitnesses disclose involvement of two ladies in the alleged offence.

6

As far as the role of the applicants is concerned, due to the property dispute, they have engaged said two persons and other two persons entered in the house of the complainant unauthorizedly and caused harm to the complainant and, therefore, the offence, *prima facie*, is made out. In view of that, the application deserves to be rejected.

6. Learned counsel for the complainant endorsed the same contentions and submitted that involvement of the applicants reveals from the investigation. In view of that, the application deserves to be rejected.

7. After hearing learned counsel for the respective parties and perusing the investigation papers, it is not disputed that there is a dispute as to the relationship between the applicants and the complainant. The complainant is residing at plot No.42 of survey No.87, which, according to the applicants, is owned by their

7

forefathers. 7/12 extract and property documents on record show name of Kisanrao Sakharamji Pohekar, i.e. the father of the applicants. Thus, the property is claimed by the applicants as well as the complainant. The Gift Deed on record shows that Kisanrao Sakharamji Pohekar executed the Gift Deed in favour of applicant No.2, which is registered document and the said property in dispute is gifted to applicant No.2.

8. Thus, everything revolves around the dispute between the applicants and the complainant. A civil dispute bearing No.19/2019 filed by the complainant is also pending CJSD.

9. Admittedly, the presence of the applicants nowhere reflects either from the recital of the FIR or the statements of various witnesses recorded during the investigation. The implication of the applicants is only on the basis that the complainant has narrated that two

ladies entered in her house illegally and unauthorizedly and disclosed that applicant No.2 and her husband have sent them to vacate the said premises. Thus, except the statements of the co-accused, there is nothing on record to show involvement of the applicants in the alleged offence.

10. Thus, *prima facie* case nowhere reveals against the applicants from the investigation papers.

11. The law relating to quashing of FIRs has been explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read as under:

9

(a) 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;

(b) 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;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do

10

not disclose the commission of any offence and make out a case against the accused;

(d) 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;

(e) 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;

11

(f) 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;

(g) 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”.

12. In this view of the matter, since no *prima facie* case is made out against the applicants, the application deserves to be allowed as per order below:

.....12/-

12

ORDER

(1) The Criminal Application is **Allowed**.

(2) FIR bearing registration No.61/2019 registered under Sections 452, 323, 504, and 506 read with 34 of the IPC and consequent proceeding arising out of the same i.e. RCC No.740/2019 are hereby quashed and set aside to the extent of applicant No.1 Mahavir s/o Davalji Nagrale and applicant No.2 Kamal w/o Mahavir Nagrale.

Application stands **disposed of** accordingly.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

...../-