



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No. 1489 of 2022

Mohd. Mobin Hussain,
Aged about 37 years, Occ. Private Job
R/o NIBM Road, Khondawa Khurd,
Pune

... Applicant

// VERSUS //

1. State of Maharashtra
through its Police Station Officer,
Police Station Hinganghat, District
Wardha
2. Shahin Mohasin Hussain,
Aged about 33 years, Occ. Advocate
R/o Indira Gandhi Ward, Hinganghat,
District Wardha.

... Non-applicants

Ms. Astha Sharma Advocate along with Shri P.R.Agrawal, Advocate for
the applicants.

Shri Sagar Ashirgade APP for the non-applicant/State

Shri V.V.Bhagde, Advocate for the non-applicant no.2.

**CORAM : NITIN B. SURYAWANSHI &
PRAVIN S. PATIL, JJ.**

Reserved on : 12th March, 2025

Pronounced on : 21st March, 2025

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the
learned counsel for the parties, the matter is taken for final disposal.

2. This is an application file under section 482 of Code of Criminal Procedure to quash the First Information Report in Crime No. 161 of 2022 registered with Police Station Nagpuri Gate, District Amravati and consequent criminal proceeding bearing Regular Criminal Case No. 1490 of 2022 pending on the file of Judicial Magistrate First Class, Amravati for the offence punishable Under Sections 354, 354A and 506 of Indian Penal Code.

3. Heard learned counsel for applicant, learned Additional Public Prosecutor for non-applicant/State and learned counsel for the non applicant no. 2/ informant.

4. On 4th March, 2022, informant lodged police complaint against applicant who is her brother-in-law. Her husband is a habitual drinker and is not mentally fit. Applicant though working as a Engineer in a private company at Pune but due to surge of Covid-19, he has opted work from home and therefore he is residing at Amravati. Applicant is married having one daughter but now due to medical reasons, applicant's wife cannot conceive further pregnancy. As such, applicant on the count

that informant's husband being not physically fit person, many a times misbehaved with her and tried to outrage her modesty.

On 16th February, 2022, she was at her maternal house at Hinganghat along with her husband. At that time, her husband under the influence of liquor, quarraled with her. Therefore, her brother took him at Nagpur to his aunt house. On that day, she lodged police report against husband and family members at women's grievance redressal cell at Hinganghat. At that time, mother-in-law convinced her if she has any problem with her husband, she should stay at maternal house at Hinganghat. It was also informed that her husband is admitted to de-addiction center at Bhandara.

On 3rd March, 2022, she reached to Amravati around 10.30 to 11 p.m along with her maternal aunt and brother. At that time, applicant seeing her enter in the house, rushed to lock the room, on asking him why he is locking the room, he tried to outrage her modesty by stating that as she is lodging various complaints, he will not leave her in a position to complain. Informant then lodged complaint against applicant. Accordingly, offence is registered vide crime No. 0161 of 2022

against applicant under Sections 354, 354-A and 506 of Indian Penal Code.

5. Applicant challenged the said First Information Report in this application. During the pendency of present application, investigation was completed and charge-sheet was filed on 4th March, 2022 consequent to the same Regular Criminal Case No. 1490 of 2022 is registered before Judicial Magistrate First Class, Amravati and same is pending.

6. The present applicant while challenging the First Information Report and consequent criminal proceeding submitted that the allegations in the First Information Report are absurd and inherently improbable. It is further stated that as informant is law graduate and working as contributory lecture at Panjabrao Deshmukh Law College, Amravati, prepared false story to entangle him in the offence. It is further submission of the applicant that he is residing at Pune, since 2007 i.e. prior to the marriage of informant, therefore, allegation levelled against him are incorrect.

7. Applicant pointed out that there is matrimonial discord between non-applicant no.2 and brother of applicant and they are

residing separately from 20th January, 2022. As such in order to pressurize the applicant for extracting money and to set her goal, this frivolous complaint is filed against him.

8. Learned Additional Public Prosecutor stated that after receipt of First Information Report to the Police Station Hinganghat, the investigation is conducted in the matter. After investigation, it is found that the allegations clearly makes out *prima facie* offence against the applicant. Hence, it is not the fit case for exercising discretionary powers under Section 482 of the Code of Criminal Procedure.

9. Non applicant no.2/informant stated that applicant is not the permanent resident of the address shown in the cause title of the application, rather he is resident of Jamil Colony, Amravati. She stated that applicant was staying in Pune and having opted 'work from home' due to Covid-19 restrictions, he was residing at Amravati. She further stated that the statement made in the First Information Report, *prima facie* makes out the case for trial and therefore, it is not a fit case to interfere at this stage by this Court.

10. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

11. It is stated that along with present criminal application, we have also dealt with criminal application no. 1488 of 2022 filed by non applicant no.2/informant against the family members of applicant. Admittedly, there is a matrimonial discord between informant and brother of applicant. It is also clear from record that informant/non-applicant no. 2 is residing separately from 20th January, 2022. Informant had lodged the complaint against the family members at Police Station Hinganghat on 17th February, 2022. However, said complaint was registered as non cognizable offence vide NCR No.204 of 2022 at Police Station, Hinganghat.

12. It is clear from the record that on the complaint of informant dated 17th February 2022 at Police Station Hinganghat, the matter was referred to the Women Redressal Cell. The members of the grievance redressal centre called the family members of the applicant. At that time mother-in-law convinced informant that if she has any problem with her husband, she should stay at her maternal house.

13. From the record, it is clear that on 2nd March, 2022 the informant by WhatsApp message to applicant stated that “yehan mat samajhna Hinganghat Police Station mein time mila to tumhara kuchh nahin hoga.” “Tumhare against mein aaj new complaint file kar rahi hun aaj Amravati mein”. Immediately thereafter in the night on 3rd March, 2022, she reached to the house of applicant at Amravati along with her maternal aunt and her son. She alleged that, at that time present applicant by seeing her entering in the house, locked the room and tried to outrage her modesty.

14. *Prima facie*, the allegations made by applicant do not inspire confidence that such incident has occurred, particularly when relation between informant and family members of her husband were not cordial. So also, the message on WhatsApp clearly indicates that informant wants to entangle the present applicant in a criminal offence. In the background of this factual position, we are of the opinion that no case is made out by the informant against applicant to attract the ingredients of Section 354, 354-A and 506 of Indian Penal Code.

15. It is further pertinent to note that as per the record applicant is residing at Pune with his family since year 2007 i.e. prior to the marriage of non-applicant no 2 with the brother of applicant. This fact of residence of applicant at Pune is confirmed from the Aadhar card which is filed on record by the applicant. Judicial note can be taken that surge of Covid-19 was upto end of year 2021. After that normal work in every institution was started, therefore, it cannot be said that applicant was permanently residing at Amravati. Allegations made against the applicant is of dated 3rd March 2022. For rest of the allegations, there is no specific date, time or place in the First Information Report.

16. Considering the entire matter particularly the contents of First Information Report in criminal application no. 1488 of 2022 and the contents of the First Information Report in the present application, which are inter connected, it is clear that informant has made allegations against applicant because of the matrimonial discord and she is intending to involve all family members of her husband. In the circumstance, we think it fit to interfere in the matter.

17. In the present case, alleged allegation of complainant do not seems trustworthy because normally no ordinary prudent person immediately after lodging of complaint against the family members at Hinganghat Police Station can ever think to return back to husband house, particularly when husband is admitted to de-addiction center at Bhandara. Secondly, she sent a Whatsapp message to applicant on 2nd March, 2022 stating that she will lodge police complaint against him and thereafter on next day she lodged complaint. Thus, the behaviour of the informant seems to be intentional to entangle applicant in a false offence. Hence, in the backdrops of these facts and considering the contents of the First Information Report, we are of the opinion that the First Information Report is lodged due to personal grudge and to settle scores with in-laws and therefore continuation of the same is abuse of process of law.

18. Counsel for non-applicant no.2 stated that she has specifically denied the resident of applicant at Pune and according to her, he is residing at Amravati. However, to contravene the document i.e. Aadhar card filed on record by applicant, no contrary documentary evidence is

available on record. As such in absence of any evidence available on record, it has to be held that applicant is residing at Pune.

19. Learned counsel for the non-applicant no.2 relied upon the judgment of Hon'ble Apex Court of India in the case of State of Orissa Vs. Pratima Mohanty and others reported in 2022 (16) SCC 703 to state that power of quashing should be exercised sparingly and with circumspection and in rare cases. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Learned counsel for the non-applicant no.2 is correct in stating that normally the powers of quashing should be exercised sparingly in rare cases.

20. State of Haryana Vs. Bhajanlal reported in AIR 1992 SC 604, Hon'ble Supreme Court has given illustrative categories as to when the powers under Section 482 of Code of Criminal Procedure are required to be invoked to prevent abuse of process of court or miscarriage of justice. The case in hand is in the category that "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".

Therefore, we are inclined to exercise powers under Section 482 of the Code of Criminal Procedure to prevent abuse of process of court and miscarriage of justice.

21. For the aforestated reasons, the application is allowed. Regular Criminal Case No. 1490 of 2022 pending on the file of learned Judicial Magistrate First Class, Amravati arising out of Crime No. 161 of 2022 registered with Police Station Nagpuri Gate, Amravati for the offence punishable under Sections 354, 354-A and 506 of Indian Penal Code is quashed and set aside. No order as to costs.

Rule is made absolute in the above terms.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]