IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 CRIMINAL APPLICATION NO. 2412 OF 2020

Dheeraj Tukaram Baviskar
VERSUS
The State Of Maharashtra And Another

Mr. N. L. Choudhari, Advocate for Applicant
Mr. S. B. Narwade, APP for Respondent No. 1/State
Mr. V. N. Shinde, Advocate for Respondent No. 2

CORAM : R.M. JOSHI, J
DATE : NOVEMBER 04, 2026

P. C. :

1. Applicant seeks quashment of the first information report in Crime No. 763/2020 as well as Charge-sheet No. 64/2021 filed by the Shirdi Police Station, District Ahilyanagar in RCC No. 64/2021 pending before the learned JMFC, Rahata, District Ahilyanagar for the offences punishable under Sections 354, 354(D), 323, 504, 505, 420, 427 of the Indian Penal Code and order of issuance of process dated 25.02.2021.

2. First information report came to be lodged by a lady, who was headmistress, in the school run by the present Applicant. She alleges that since May, 2019 till March, 2020, she was working with school as headmistress. She makes allegations against the Applicant of the incident of August 2019, September 2019 and 4th March 2020 to say that the Applicant committed various acts, which amounted to outraging her modesty. She also

refers to the incident of 3rd May, 2020 in which she claims that Applicant traveled from Shirpur, District Dhule to Shirdi and committed similar acts. She also alleges in the first information report that the Applicant had obtained blank cheque and when on 2nd December, 2020 the said cheques presented for realization, dishonoured. It is stated in the first information report that after receipt of the said message with regard to dishonour of cheque, she lodged a report.

3. Learned Counsel for the Applicant submits that this is a case of false implication of the Applicant owing to the issue of dishonour of the cheque issued by the Informant to the Applicant. It is his contention, by referring to the first information report, that the said allegations are inherently not acceptable for the reason that the Allegations are vague and insofar as the allegations of 3rd May 2020, it is practically not possible that during the peak time of COVID-19 pandemic, the Applicant would have travelled from one district to another. It is his submission that during the course of investigation, CCTV footage of the school was provided indicating presence of the Applicant in the school on 3rd May 2020. It is his contention that the investigating agency has failed to consider the said videos when it was available on record. According to him, the statements recorded of the Informant under Section 161 of the Code of Criminal Procedure does not refer to occurrence of the incident of 3rd May 2020, which creates serious

doubt about the allegations against the Applicant. He drew attention of the Court to the statements of witnesses indicating that the statements are wholly not reliable for the reason that the informant had joined the school as headmistress in May 2019, whereas have referred occurrence of incident of 4th March 2019, which is impossible to occur. He also drew attention of the Court to the statement of another victim, who, in her statement before the investigating officer, makes allegation against the Applicant of committing acts which will amount to outraging of modesty. However, in the statement before the Magistrate under Section 164 of the Code of Criminal Procedure, she states nothing about it. It is his further submission that having regard to this quality of evidence and allegations so also considering the possibility of false implication owing to the disputes between the parties, this case is duly covered by the principles laid down by the Hon'ble Supreme Court in the case of ***State of Haryana and Others v. Ch. Bhajan Lal and Others, 1992 Supp (1) SCC 335***.

4. Learned APP opposed grant of any relief to the Applicant by referring to the first information report, so also statements of witnesses recorded during the course of investigation by the investigating officer so also before the magistrate. His contention is that all these statements indicate that the incident of 3rd May 2020 is not the only incident in respect of which complaint is made, but previous incidents are sufficient to indicate

offence being committed by the Applicant. It is his submission that all these issues are required to be decided during the trial and hence, this is not the case of quashing of the proceedings.

5. Learned counsel for the informant elaborately argued while opposing the application for quashing. It is his submission that the plea of alibi sought to be raised by the Applicant can only be considered during the course of trial and not at this stage. To support this submission, he places reliance on the judgment of Coordinate Bench of this Court in case of ***Nandakumar Sukumar Panicker vs. State of Maharashtra and Another*** (Criminal Writ Petition No. 1297/2021 decided on 10.06.2026). To support his submission, he drew attention of the Court to the observation made in paragraph 13 of the said judgment. According to him, the Hon'ble Supreme Court in case of ***Pradeep Kumar Kesarwani vs. State of Uttar Pradesh, (2025) SCC Online SC 1947***, wherein the principles are laid down for the purpose of considering the evidence sought to be placed by the accused for the purpose of quashing of the proceedings. It is his submission that the videos of CCTV footage sought to be placed on record is not impeccable in nature and cannot be considered at this stage. In response to the submission made by the learned Counsel for the Applicant with regard to the material inconsistency in the statement of the Informant herself before the police and before Magistrate, he contends that the recording of statement under

Section 164 of the Code of Criminal Procedure is not mandatory and any discrepancies therein cannot become a ground for quashing of the proceedings. To support his submission, he places reliance on the observations made in paragraph 12 of the judgment in case of ***Nandkumar Sukumar Panicker*** (supra). He further submits that the issues, which are touching to the facts of the case, are not allowed to be considered and decided at this stage, as the same will amount to conducting mini-trial. To support his submission for quashing of the proceedings, he places reliance on following judgments: ***Rajendra Singh vs. State of Uttar Pradesh and Another, AIR 2007 SC 2786***, ***Mangesh Eknath More vs. State of Maharashtra and Others*** (Criminal Writ Petition No. 782/2021, decided on 11.02.2026) and ***Piyush Singh @ Bobby Yadav vs. State of Uttar Pradesh and Others, (2024) 9 ILRA 415***. He further submits that the first information report has been lodged by the informant not beyond the period of limitation. In this regard he referred to the provisions of Section 468 of the Code of Criminal Procedure as well as judgment in ***Nandkumar Sukumar Panicker*** (supra).

6. Finally, it is his contention that the Applicant is in habit of committing similar crime. In this regard, he referred to Crime No. 121 of 2023 registered against the Applicant.

In response to the said submission, learned counsel for the Applicant has placed on record the order passed in Summary Case No. 27 of

2023, indicating that 'B' summary filed by the police came to be accepted.

7. There cannot be any dispute with regard to the proposition sought to be canvassed by the learned counsel for the Informant that it is not open for this Court to consider merits or otherwise of the evidence and the same is required to be decided by the trial court during trial. However, as per the settled principle laid down by the Hon'ble Supreme Court in the case of ***Bhajanlal*** (supra), this Court is required to consider as to whether this is a case of lodging of false proceeding owing to the disputes between the parties or whether any mala fides can be seen from the record in initiating such proceedings and as to whether the material sought to be placed by the accused is of unimpeccable in nature, which would lead to conclusion of this being a false case. If all these conditions are satisfied, there cannot be any impediment in quashment of the proceedings. It may not be accepted to say that even if the Court comes to the conclusion that this is a case of false implication, on the pretext of ascertaining of the evidence before the trial Court, the criminal proceedings cannot be allowed to be continued. Informant-victim claims that she was appointed as headmistress in the school of the Applicant since May 2019. She alleges that the incident have occurred in August, 2019 and September, 2019. She does not give any details with regard to the said incident and the said incidents mentioned therein are vague as possible. She, however, claims that on

4th March, 2020 at about 01:30 p.m. the Applicant came to her house and committed act outraging her modesty. In this regard, statements of witnesses are recorded, who not only claims the occurrence of the incident on 4th March 2019, but states about having seen committing crime and Applicant coming towards the school. As far as the actual incident is concerned, their evidence is hearsay. Even giving benefit of doubt to the witness or considering it to be a wrongful recording of date of incident as 4th March 2019, still the statement of this witness is believed to be a planted witness for the reason that this witness before the police claims similar act done by the applicant with her. However, in the statement before the Magistrate she does not whisper anything about it. It is practically impossible to say that the lady whose modesty is being outraged by the Applicant fails to mention the same before the Magistrate. Similarly, the Informant though alleged the act of 3rd May 2020 in the first information report, she makes no statement in this regard before the Magistrate. The judgment sought to be relied upon by the learned counsel for the Informant with regard to the recording statement of the victim being not mandatory under Section 164 of CrPC is concerned, the same has no application to the present case.

8. As far as the delay caused in lodging of the report is concerned, needless to say, delay in each case may not become fatal to the case of

prosecution, and in certain cases it can be explained satisfactorily. Apart from the fact that there is absolutely no explanation of delay, the first information report itself indicates as to the reasons for lodging of the report. Reason as it appears from the first information report is the dishonor of the cheques issued by the informant to the Applicant. As far as the evidence collected during the course of investigation is concerned, most shockingly, the investigating officer in spite of CCTV footage being made available to him during the course of investigation, fails to ascertain its correctness. He boldly states in the report submitted before the Sessions Court through APP that he has not verified the said video for the reason that it could be the different one and time could be changed. It is not open for the investigating officer to make such observations unless he finds that there is any manipulation in the evidence. This becomes more relevant in view of the fact that the incident of 3rd May 2020 was occurred during the peak time of COVID-19 pandemic at the time of which there were strict prohibition for the movement of general public. In such circumstances, to accept, in absence of any evidence that Applicant travelled from one district to another and outraged modesty of the informant on 3rd May 2020, which forgets to mention before Magistrate during recording of statement under Section 164 CrPC, this Court has no hesitation to hold that this is a case of false implication. Once such false implication is found, this Court is required to exercise its jurisdiction and intervene in the issue.

9. In view of above discussion, Applicant succeeds in the Application. Hence, Application stands allowed in terms of prayer clauses ‘B’, ‘B-1’ and ‘B-2’.

(R. M. JOSHI, J.)

Malani