



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

CRIMINAL APPLICATION (APL) NO. 1631 OF 2024

APPLICANTS

- :-** 1) Asha wd/o Nandkishor Salve,
Aged about 50 years, Occu: Housewife,
R/o Amrut Nagar, Deulgaon Raja,
District Buldhana.
- 2) Kalpana w/o Sandip Kakde,
Aged about 32 years, Occu: Housewife,
R/o Mehuna Raja, Tah. Deulgaon Raja,
Dist.Bhandara.
- 3) Manjusha w/o Suresh Zote,
Aged about 35 years, Occu: Housewife,
R/o Umbarkhed, Tah. Deulgaon Raja,
Dist. Buldhana.
- 4) Vijaya D/o Nandkishor Salve,
Aged about 31 years, Occu: Service,
R/o Amrut Nagar, Deulgaon Raja,
District Buldhana.

..VERSUS..

NON-
APPLICANTS

- :-** 1) State of Maharashtra,
through P.S.O. Police Station Deulgaon
Raja, District Buldhana.
- 2) XYZ
In Crime No. 236/2024
Through Police Station Office, Police
Station Deulgaon Raja, District
Buldhana.

Mr. A.V.Band, counsel for applicants.

Ms. S.V. Kolhe, APP for non-applicant/State.

Ms. Aastha Sharma, counsel (appointed) for non-applicant No.2.

CORAM : PRAVIN S. PATIL, J.
DATE : 23/02/2026

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of Mr A.V.Band, learned counsel for applicants, Ms. S.V. Kolhe, learned APP for non-applicant/State and Ms Aastha Sharma, learned counsel (appointed) for non-applicant No.2, the application is taken up for final hearing at the stage of admission.

2. The applicants herein are the mother and sisters of the main accused, namely Chandrakant. They have approached before this Court to quash and set aside the criminal proceedings registered against them vide Crime No. 236/2024 at Police Station Deulgaon Raja, District Buldhana, for the offence punishable under Section 376(2)(n), 109, 506 read with Section 34 of the Indian Penal Code, 1860, and Sections 8 and 12 of the Protection of Children from Sexual Offences Act.

3. The applicants seek quashment of the proceedings mainly on the ground that complaint lodged against them is false. Secondly, it is contended that the allegations which are made against them are beyond the imagination of any prudent persons. It is stated that, there is a property dispute between the two families therefore a false complaint has been lodged in the matter. Hence, they seek indulgence of this Court.

4. In the present case, the complainant has alleged in her complaint that since 2016, she was in contact with the main accused Chandrakant. He was allegedly trying to establish physical relations with her and, being a close relatives, used to visit her house at Aurangabad. It is further alleged that on 04/05/2016, when she was at her house in

Aurangabad, the main accused established physical relations with her without her consent. She has stated that the main accused gave her a false promise of marriage.

5. The allegation against the present applicants, who are the mother and sisters of accused Chandrakant, is that they were encouraging him to have sexual intercourse with the non-applicant No.2. On the basis of this allegation, the offence came to be registered against the present applicants.

6. The applicants, at first instance to demonstrate that there was a property dispute between two families, placed reliance on a report dated 08/04/2024 lodged to the Police Station Deulgaon Raja as NCR No. 0194/2024. In the said report, it is alleged that mother of the complainant is claiming a share in one plot which was in the name of husband of applicant No.1, as well as an equal share in the superannuation benefits received to her after the death of her husband. However, applicant No.1 was not ready to give share and thereby dispute was arose and same is going on in two families.

7. The applicants also pointed out the marriage card of the applicant No.2 Kalpana Sandeep Kakde. It would be relevant to refer the said marriage card, because date of marriage was 04/05/2016 at Deulgaon Raja. As per allegations in the complaint on 04/05/2016, the main accused Chandrakant was at Aurangabad and had established the relations with the complainant. As such, allegation that when marriage of real sister of main accused was going on, on that day, he was at Aurangabad is undigestable and falsify the entire case of complainant.

8. So also, allegation against the present applicants is that when the complainant visited the house of the accused Chandrakant at

Deulgaon Raja and stayed there, the present applicants encouraged him to have sexual relations with her. However, no specific date time is stated in the complaint as to when she was at Degulgaon Raja when there is dispute in family, how she stayed at house of applicant. Moreover, as per her own allegations, the first instance of their relationship occurred in 2016, while the complaint is lodged in June 2024. Therefore, it was necessary for the complainant to explain delay, but nothing has been placed on record.

9. In this regard, it will be relevant to refer the judgment of Hon'ble Supreme Court of India in the case of ***Mahmood Ali and Others vs. State of Uttar Pradesh and Others reported in 2023(15) SCC 488***, wherein the Hon'ble Supreme Court of India has observed in paragraphs Nos. 12, 13, 14 as under :-

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple

FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

14. State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:- (Golconda Linga Swamy Case¹⁰, SCC p.527, paras 5-7)

“5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

6. In R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 :AIR 1960 SC 866, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7. In dealing with the last category, it is important to

bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death.....”

(Emphasis supplied)

10. In the present case, it is clear that there was a property dispute between two families. The main allegations are against accused Chandrakant. The only allegation against the present applicants is that they have encouraged the Chandrakant to establish the physical relations with the non-applicant No.2. However, there is no specific date, time, or any specification is given in the complaint.

11. In such circumstances, I am of the considered opinion that the offence under Section 376 (2)(n), 109, 506 read with Section 34 of the Indian Penal Code, 1860, are not attracted against the present applicants. Furthermore, it is a clear case of implicating all the family members of the applicant in a criminal offence without specific allegations. Therefore, the indulgence of this Court is necessary by considering the judgment of the Hon'ble Supreme court of India in the case of *Mahmood Ali and Others* (*supra*). Hence, I proceed to pass the following order.

ORDER

- a] The criminal application is **allowed**.
 - b] The proceedings bearing Crime No. 236 of 2024 registered with Police Station Officer, Police Station Dulgaon Raja, District Buldhana dated 13/06/2024 for the offence punishable under Sections 376(2)(n), 109, 506 read with Section 34 of the Indian Penal Code, and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, is hereby quashed and set aside against present applicant only.
 - c] All pending applications stand disposed of.
12. Rule is made absolute in the aforesaid terms. No orders as to costs.

(PRAVIN S. PATIL, J)