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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO. 577 OF 2019

Sudhirkumar Baliram Singh,  
Aged 39 Years, Occ. Service,  
R/o Plot No. 79, Nashiman Colony,  
Durga Mata Nagar, Nagpur

: APPLICANT

...VERSUS...

1. State of Maharashtra,  
Through Railway Police Station,  
Officer Shegaon, Tah. Shegaon,  
District – Buldhana.

2. Smt. Amita W/o Devnarayan Dube,  
R/o Gita Nagar, Akoli Road,  
Akola, Tah. Akola, Dist. Akola

: NON-APPLICANTS

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Mrs. Shilpa Giratkar, Advocate for the applicant.

Mr. V.A.Thakre, Additional Public Prosecutor for the non-applicant no.1.

Mr. Ashish Girdekar Advocate for the non-applicant no.2.  
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CORAM : V.M.DESHPANDE &  
ANIL S.KILOR, J.

DATE : 3<sup>rd</sup> NOVEMBER, 2020

ORAL JUDGMENT (Per : Anil S. Kilor, J.)

Hearing was conducted through Video conferencing and the learned counsel agreed that audio and visual quality was proper.

2. Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned counsel for the respective parties.



3. By the present application under Section 482 of the Code of Criminal Procedure, the applicant who is a Ticket Examiner in Central Railway Nagpur is praying for quashing and setting aside the First Information Report No. 106 of 2019 dated 26<sup>th</sup> March, 2019 registered with Railway Police Station, Shegaon for the offences punishable under Sections 354, 294 and 506 of Indian Penal Code on a complaint of non-applicant no.2.

4. Heard Mrs. Shilpa Giratkar, learned counsel for the applicant, Shri V.A.Thakre, learned Additional Public Prosecutor and Shri Ashish Girdekar, learned counsel for the non-applicant no.2.

5. It is the case of the prosecution that the non-applicant no.2 lodged a complaint on 26<sup>th</sup> March, 2019 against the applicant alleging that when she was traveling on 18<sup>th</sup> February, 2019 in a train no. 12859 Gitanjali Express in Coach No. S-4 from Bhusawal to Akola during the journey the complainant was having general ticket and the applicant abused her in a filthy language and tried to molest her.

6. On the said complaint the First Information Report was

registered against the applicant vide crime No. 106 of 2019 for the offence punishable under Sections 354, 294, 506 of Indian Penal Code. The said First Information Report is sought to be quashed and set aside by the present application at the instance of the applicant.

7. Mrs. Giradkar, learned counsel appearing for the applicant submits that the alleged incident was never occurred and with an ill intention to falsely implicate the applicant in the alleged offence because the applicant asked the complainant to pay penalty/fine for traveling without ticket, the said FIR was lodged. Thus, she submits that as per the well settled law since the First Information Report was lodged maliciously, the same is liable to be quashed and set aside.

8. She further points out that alleged incident took place on 18<sup>th</sup> February, 2019 whereas the complaint was made on 26<sup>th</sup> March, 2019 i.e. after more than one month. It is submitted that no explanation has been offered by the complainant for lodging the report belatedly. In the said backdrop, she argues that the complaint is afterthought.

9. Learned counsel for the applicant draws attention of this Court to the letter written by the applicant to his Superior Officer,



informing in detail the incident took place on 18<sup>th</sup> February, 2019 in a train No. 12859 Gitanjali Express. It is submitted that the contents of the said letter shows that the First Information Report in question has been lodged by the complainant only because the applicant asked her to pay fine/penalty for traveling without ticket.

10. Per contra, learned Additional Public Prosecutor opposes the present application and thereby prays for dismissal of the application.

11. Learned counsel for the non-applicant no.2/complainant submits that the applicant abused the complainant with filthy language and tried to molest her and therefore on the face value of the First Information Report the offences under which the crime has been registered by the non-applicant no.1, attract and therefore this is not a fit case to exercise the jurisdiction by this Court under Section 482 of the Code of Criminal Procedure. By arguing so, he prays for dismissal of the present application.

12. To consider the rival contentions of the parties, we have gone through the record and perused the relevant documents.

13. In the present matter the whole story revolves around the fact that the non-applicant no.2/complainant was traveling in a train No. 12859 Gitanjali Express in Coach No. S-4 without ticket and therefore to verify the correctness of the said fact a specific query was put to the learned counsel for the complainant/non-applicant no.2 who has fairly stated that though the complainant had general ticket, however, no such ticket is filed alongwith the reply of the non-applicant no.2, on record.

14. Thus, after the above referred admission by the learned counsel for the non-applicant no.2, we find the following undisputed facts in the present matter.

- a. The applicant was on duty as a ticket examiner for Coach No.S-4, S-5 and S-6 in a train No. 12859 at Gitanjali Express from Bhusawal to Nagpur on 18<sup>th</sup> February, 2019.
- b. The complainant was traveling in the said train in Coach No. S-4 on 18<sup>th</sup> February, 2019.
- c. The complainant had no ticket of reserved class to travel in Coach No. S-4.
- d. The incident was immediately reported by the applicant to his Superiors on 19<sup>th</sup> February, 2019.
- e. The complainant/non-applicant no.2 lodged a criminal



complaint to the non-applicant no.1 on 26<sup>th</sup> March, 2019  
i.e. after more than one month from the date of incident  
without offering any explanation for such delay.

15. The Hon'ble the Supreme Court of India, in the case of State of Haryana and others Vrs. Bhajan lal and others reported in 1992 Supp. (I) Supreme Court Cases 335, has summarised and illustrated the category of cases in which power under Section 482 of Code of Criminal Procedure should be exercised, which are as follows:

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) 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.

- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) 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.
- (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.
- (6) 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.
- (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.”

16. In the present matter as there is no dispute that the complainant was not having valid ticket to travel in a reserved coach of train No. 12859 Gitanjali Express, however, she was traveling in a Coach No. S-4, illegally. On the other hand while performing the duty which was entrusted to the applicant as a ticket examiner, on inquiring about the ticket to the non-applicant no.2, non-applicant no.2 got annoyed. Thus, the First Information Report in question itself is a result of asking the non-applicant no.2 to pay fine/penalty for traveling in train without ticket.

17. Admittedly, learned counsel for the non-applicant no.2 failed to produce any ticket, even of a general class on record. Hence, we have no hesitation to hold that the First Information Report in question is out of annoyance and out of revengeful attitude of the non-applicant no.2, on the ground that the applicant asked her to pay a fine/penalty for traveling in train without ticket.

18. In the circumstances, this is a fit case to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure. Accordingly, we pass the following order.



**ORDER**

- i. Criminal Application No. 577 of 2019 is allowed.
- ii. First Information Report No. 106 of 2019 registered with Railway Police Station, Shegaon for the offences punishable under Sections 354, 294 and 506 of Indian Penal Code is quashed and set aside.
- iii. The Criminal Application is disposed of. No order as to costs.

**JUDGE****JUDGE**

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