

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 236 OF 2015

Pundlik s/o. Sahebrao Jangle **Applicant.**

Versus

The State of Maharashtra & Anr. **Respondents.**

Mr. S.S. Thombre, Advocate for applicant.

Mr. V.D. Godbharle, APP for State.

Mr. S.S. Panale, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE &
SMT. I.K. JAIN, JJ.**

DATED : 30th March, 2015.

ORDER :

1. The proceeding is filed for quashing of F.I.R. No. 3093/2013 registered with Kranti Chowk Police Station, Aurangabad for the offences punishable under section 66-A of Information Technology Act, 2008 (I.T. Act). The relief of quashing of chargesheet is also claimed. Both the sides are heard.

2. There are allegations against applicant Pundlik Jangle that he had uploaded one photograph on What's App., social media. The complainant was member of this group. Allegations are made that in the photograph, there was some objectionable material, virtually using insulting language and there were

photographs of some political leaders including the photograph of leader of political party, B.J.P. and the photograph of founder of political party, Shivsena. The conduct of the political party, Shivsena was ridiculed by showing that they were virtually begging for getting some seats from the other party, B.J.P. in General Election of State Legislative Assembly. There was writing to the effect that due to such conduct, the political party, Shivsena was destroying its image and it was letting down Marathi people.

3. From the contents of the aforesaid material, it can be said that whatever negotiation was going on between two political parties for distribution of seats for contesting the election as a alliance was not liked by the person like petitioner. He was from the same group. Such negotiation did take place and it is a fact that their discussion ultimately did not result in forming alliance and these two parties fought the election separately. There is no need to discuss more about the intention behind such publication on social media as it can be said that it was a view expressed by the present applicant. The material apparently is not covered by section 66-A of I.T. Act.

4. The learned counsel for the applicant placed reliance

on recently decided case of Supreme Court bearing **Writ Petition No. 167/2012 and others between Shreya Singhal Vs. Union of India dated 24.3.2015**. The Apex Court has struck down section 66-A of I.T. Act by holding that the provision is unconstitutional under Article 19 (1) (a) and not saved by Article 19 (2) of the Constitution of India. In view of these circumstances, this Court holds that nothing can be achieved by allowing the State to prosecute the matter against the present applicant.

5. In the result, the application is allowed. The F.I.R. No. 3093/14 registered in Kranti Chowk Police Station, Aurangabad for the offence punishable under section 66-A of I.T. Act and the chargesheet bearing II-12/2014 filed by the police in respect of the said F.I.R. are quashed and set aside.

[SMT. I.K. JAIN, J.]

[T.V. NALAWADE, J.]

ssc/