

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 433/2015
 (SHAFI ISMILE SHEIKH VERSUS STATE OF MAHARASHTRA & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri S.V. Bhutada, counsel for the applicant.
 Shri S.S. Doifode, A.P.P. for the NA-1.
 Shri K.B. Zinzarde, counsel for the NA-2 & 3.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : SEPTEMBER 04, 2017.

By this criminal application, the applicant seeks the quashing and setting aside of F.I.R. No.97 OF 2015 registered against the applicant for the offences punishable under Section 420 of the Penal Code and Sections 66-D and 66-E of the Information Technology Act.

The applicant was working on the post of Junior Telecom Officer with B.S.N.L., since the year 1997. The non-applicant no.2 had lodged a report against the applicant in the police station in 2015 that the applicant had fraudulently opened a Facebook account in the name of the wife of the non-applicant no.2 and had posted objectionable pictures of Hindu Goddesses with vulgar contents. On the basis of the first information report, an offence was registered against the applicant under Section 420 of the Penal Code read with Sections 66-D and 66-E of the Information Technology Act. The applicant has sought for the quashing and setting aside of the first information report.

It appears that during the pendency of the application, a charge-sheet is filed against the applicant. Also, it appears that the non-applicant no.1 has investigated in the matter and has found from the statement of Yakin Padole, who is a resident of Tumsar, that the applicant had purchased a Tablet in the name of the wife of the non-applicant no.2 in whose name the Facebook account was opened. According to the non-applicant no.2, it was found from the statement of Yakin Padole that the applicant had paid for the Tablet and had asked Yakin Padole to purchase the same in the name of the wife of the non-applicant no.2. While investigating the matter, the I.P. addresses for accessing the account of the wife of the non-applicant no.2 were obtained and the I.M.E.I. number and the C.D.R.s of the concerned devices were also secured. It cannot be said in the circumstances of the case, specially on a reading of the first information report and the material secured by the non-applicant no.1 while investigating the complaint, that *prima-facie* the offences under Section 420 of the Penal Code and Sections 66-D and 66-E of the Information Technology Act cannot be made out against the applicant. Since *prima-facie*, the first information report itself discloses the offences and the same is also supported by the other material, the first information report cannot be quashed and set aside.

In the result, the criminal application fails and is dismissed with no order as to costs.

JUDGE

JUDGE