

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.1241 of 2015

* Hemant s/o Sadanand Surve,
Age 54 years,
Occupation: Advocacy,
R/o M-4/14, Asmita Park,
N-7, CIDCO, Aurangabad. .. **Applicant.**

Versus

- 1) The State of Maharashtra
Through the Secretary to the
Government, Home Department,
Mantralaya, Mumbai.
- 2) The Superintendent of Police,
Parbhani.
- 3) The Senior Police Inspector,
Nava Mondha Police Station,
Parbhani.
- 4) Ms Pushpa d/o Balasaheb Kale,
Age 26 years,
Occupation: Service,
Presently posted at Panchayat Samiti,
Sailu, Taluka Sailu,
District Parbhani. .. **Respondents.**

Shri. V.D. Salunke, Advocate, holding for Shri. Kshitij Surve, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for respondent Nos.1 to 3.

Shri. V.B. Dhage, Advocate, for respondent No.4.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 27 JULY 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of F.I.R. No.I-296/2014 registered with respondent No.3 - police station for offences punishable under sections 354, 506 etc. of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of report given by a lady. According to her, on 22-11-2014 she had gone to Parbhani Court as her sister was to give statement in departmental enquiry which was started against one employee of the Court. Present applicant who is an Advocate was representing the said employee in the departmental enquiry. It is her contention that at about 6.00 p.m. she noticed that the present applicant took her photograph and also the photograph of her sister and also of one Limbaji Thore who was other employee of the Court. It is her case that when she went to Limbaji Thore

to inform him that the present applicant, Advocate had taken the photographs, the present applicant rushed at them and gave threats. It is her contention that they then went to the chamber of the Enquiry Officer and they informed the Enquiry Officer about the incident. It is contended that subsequently on the instructions given by the judicial officer, present applicant, Advocate, deleted the photographs from his mobile handset.

3) The submission made by the learned counsel for the applicant show that, it is not disputed that the photographs were taken by the applicant. Submission was made that the Advocate wanted to use the photographs to show that the witness, sister of the first informant and other person were together and they had joined hands against the delinquent. It is surprising that such submission is made for an Advocate. Advocate is not expected to indulge in such activity. He cannot collect such material for his client and cannot get personally involved in the matter. To some extent this can be called as misconduct of an Advocate. Such conduct also is unbecoming of an Advocate.

4) Though the conduct was unbecoming of an Advocate, it is necessary for the prosecution to show that the conduct falls under section 354 of IPC or any amended provision of section 354 of IPC. From the aforesaid contentions it cannot be said that there was intention of the applicant of the nature mentioned in section 354 or the amended section 354 of IPC. The allegations in respect of other offences are made against other accused and not against the present applicant. In view of these circumstances this Court holds that nothing can be achieved if the present applicant is made to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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