

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

974 CRIMINAL APPLICATION NO. 1221 OF 2021

Umesh S/o. Sidram Dhote,
Age : 42 years, Occ : Service,
R/o : C/o. Block Education Office,
Panchayat Samiti, Hadgaon,
Taluka Hadgaon, District Nanded.

...Applicant.

Versus

1. The State of Maharashtra,
Through Police Inspector,
Hadgaon Police Station,
Hadgaon, District Nanded.

2. Sunita Maroti Surnar,
Age. 37 years, Occ : Service,
R/o. Sawali, Taluka Mukhed,
District Nanded.

...Respondents.

Advocate for Petitioner : Mr. N.S. Shah.
APP for Respondent No. 1 / State : Mrs. P.V. Diggikar.
Advocate for Respondent No. 2 : Mr. V.P. Narwade and
Mr. M.V. Narwade.

**CORAM : SUNIL P. DESHMUKH AND
NITIN B. SURYAWANSHI, JJ.
DATED : 07.09.2021**

JUDGMENT (PER : NITIN B. SURYAWANSHI, J.) :

1. Rule. Rule made returnable forthwith. Heard finally at admission stage.

2. This application filed under Section 482 of the Code of

Criminal Procedure, seeks relief of quashing of FIR at Crime No. 22/2021 registered with Hadgaon Police Station, District Nanded, for the offences punishable under Sections 354, 354-A of the Indian Penal Code.

3. The FIR in question was lodged by respondent No. 2/informant alleging that she is working as Special Subject Expert in the office of Gut Sadhan Kendra, Panchayat Samiti, Hadgaon, on contractual basis. On 21.01.2021 at 3:30 p.m., she went to the bathroom situated in the godown of Panchayat Samiti Office along with Subject Expert Smt. Shakuntala Dhondbaji Dadmal. Shakuntala was standing outside the door of the bathroom, at that time suddenly the applicant came there and he started entering the bathroom. When Shakuntala told the applicant that informant is inside and he should not enter, still when the informant was sitting for bathroom, the applicant came there and asked her as to how she had come for bathroom, with whose permission she comes to the bathroom. The applicant told her that he is Office Superintendent, then he touched the face of informant and asked her to go out of office. By this act, the applicant outraged modesty of the informant. The applicant earlier also used to say obscene and nasty things to the informant which are mentioned in the FIR. The informant at those times complained in that behalf to

the Block Education Officer. Thus, the informant alleged that applicant has outraged her modesty and has abused her in filthy language and has given her insulting treatment.

4. Learned Advocate for the applicant strenuously urged that the FIR is lodged with *mala fide* intentions. Earlier on 07.09.2020, the applicant had complained about the informant and her husband to the Chief Executive Officer. According to him, the FIR does not disclose any offence. The essential ingredients of Section 354 of IPC are not made out in the entire complaint. By relying on the ratio in *State of Haryana and others Versus Ch. Bhajanlal and others*, **AIR 1992 SC 604**, learned Advocate submitted that the FIR against the applicant is liable to be quashed and set aside.

5. On the other hand, the learned APP submitted that on plain reading of the FIR, the offences under Sections 354 and 354-A are clearly made out. After conducting the investigation, the charge-sheet is filed and the case is numbered as RCC No. 46/2021, which is pending in the Court of Judicial Magistrate, First Class, Hadgaon, District Nanded. According to her, sufficient material is available against the applicant to frame charge under Sections 354 and 354-A of the Indian Penal Code.

6. The learned Advocate for respondent No. 2/informant adopted the arguments of the learned APP. He further submitted that no case is made out by the applicant to quash the proceedings.

7. Plain reading of the FIR reveals that by using vulgar language and by entering into the bathroom while it was occupied by the informant and by touching her inappropriately, the applicant has committed the offences under Sections 354 and 354-A of the IPC. The statements recorded during the course of investigation submitted in the charge-sheet, support the allegations in the FIR. It, *prima facie*, appears from the material collected during the investigation that while the informant was using the bathroom, in spite of Smt. Shakuntala telling the applicant not to enter since the informant was using the bathroom, he entered the bathroom. There is sufficient material to frame charge against the applicant under Sections 354 and 354-A. *Prima facie*, the FIR and the material collected during the investigation makes out a case against the applicant of outraging the modesty of the informant by using vulgar language and abuses. *Prima facie*, the applicant has committed an offence under Section 354-A of the IPC.

8. Taking into consideration these aspects, we are not inclined to

consider the probable defence of the applicant at this stage that since the applicant had complained to the Chief Executive Officer, he is falsely involved in the present case. We, therefore, find no substance in the challenge raised by the applicant. The Criminal Application is, therefore, dismissed.

9. Rule is discharged. No order as to costs.

(NITIN B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)

S.P.C.