

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.185 OF 2022

APPLICANT: Yunus @ Injus Mangal Parsuwale,
Aged about 47 years, Occu : Driver,
R/o at post-Lawana, Tq. Mangrulpir,
Dist. Washim.

V E R S U S

NON-APPLICANTS : 1. The State of Maharashtra,
Through P.S.O. Police Station,
Manora, Tq. Manora,
Dist. Washim.

(Amended as per
Court order dt.
22/08/22)

2. Sharda Badasaheb Jadhav,
Aged about 31 years, Occu: Service,
R/o Mirkale Nagar, Sharda Niwas,
Ahmadpur, Tq. Ahmadpur,
Dist. Latur - 413515.

Shri A. M. Haque, Advocate for applicant.

Shri A. S. Fulzele, Additional Public Prosecutor for Non-applicant No.1.

**CORAM:- MANISH PITALE AND
VALMIKI SA MENEZES, JJ.**
DATED :- 25/08/2022.

ORAL JUDGMENT : (PER MANISH PITALE, J.) :

1. Heard.

2. **ADMIT.** Heard finally with the consent of learned
counsel appearing for the parties.

3. By this application, applicant is seeking quashing of FIR
No.256/2021 dated 29/04/2021 registered at Police Station,

Manora, Dist. Washim for offence punishable under Section 353 of the Indian Penal Code (IPC). The applicant is also seeking quashing of charge sheet that was filed in pursuance of investigation. Consequently, applicant is also seeking quashing of criminal case initiated pursuant to the FIR.

4. Shri A. M. Haq, learned counsel appearing for the applicant submits that even if the contents of the oral report leading to the registration of FIR and the charge sheet along with documents are to be taken as it is, the ingredients of offence punishable under Section 353 of the IPC are not made out and that the present application deserves to be allowed.

5. Shri A.S.Fulzele, learned APP assisted this Court by relying upon the relevant portions of charge sheet and documents filed on record.

6. We have perused the oral report submitted by non-applicant No.2. She claimed as the original informant / complainant that while working as Tahsildar, the actions attributed to the applicant amounted to criminal force to deter her as a public servant from discharging her duty.

7. We have perused the charge sheet as well as documents filed therewith. We find that the allegation levelled against the applicant in the present case is that he was following the vehicle of non-applicant No.2, when she was on official duty and that when the non-applicant No.2 tried to stop the vehicle of the applicant, he allegedly drove away at high speed. Due to this, non-applicant No.2 had an apprehension about the injury to her life and limb at the hands of the applicant, which according to her, attracted the aforesaid offence against the applicant.

8. We find that the learned counsel for the applicant is justified in relying upon the Judgment of the Hon'ble Supreme Court, in the case of Manik Taneja and another Vrs. State of Karnataka and another, reported in (2015) 7 SCC 423, wherein the ingredients of offence under Section 353 of the Indian Penal Code have been examined.

9. Section 353 of the Indian Penal Code reads as follows :-

"353. Assault or criminal force to deter public servant from discharge of his duty. - Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from

discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

10. The essential ingredients of the offence under the said provision are that there ought to be assault or use of criminal force against a public servant, while she is performing her duty. This would necessarily entail action on the part of accused of using criminal force to deter a public servant from performing her duty.

11. In the present case, even if the allegations levelled against the applicant are accepted as it is, at worst, it could be said that he was following the vehicle of non-applicant No.2, while she was on duty and thereafter, he sped away.

12. We are not convinced that the ingredients of Section 353 of the Indian Penal Code are made out.

13. In view of the above, we are inclined to allow this application. Accordingly, the application is allowed and FIR No.256/2021 dated 29/04/2021 registered at Police Station, Manora, Dist. Washim against the applicant is quashed.

Consequently, the charge sheet filed in the matter and the criminal case initiated against the applicant are also quashed.

[VALMIKI SA MENEZES, J.]

[MANISH PITALE, J.]

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