

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

CRIMINAL APPLICATION (APL) 368 OF 2020

1. Prabha Anandrao Lokhande,
age 77 yrs, Occ – Home maker,
2. Varsha Vinayak Nagrare,
age 47 yrs, Occ. Private,
3. Abhishek Vinayak Nagrare,
Age 25 yrs, Occ. Student,

All r/o. Plot No. 15, Jethwan Society,
Near Shastri Layout, Khamla,
Nagpur

....APPLICANTS

...V E R S U S...

1. State of Maharashtra,
through its Police Station Officer,
Police Station, Rana Pratap Nagar,
Nagpur City, Nagpur
2. Sunil s/o. Anandrao Kamble,
age 52 yrs, Occ. Nil,
r/o. Plot No. 14, Jethwan Society,
Near Shastri Layout, Khamla,
Nagpur

....NON-APPLICANTS

Mr. R.R. Vyas, counsel for applicants.
Mr. T.A. Mirza, APP for non-applicant 1/State.
Mr. S.P. Sonawane, counsel for non-applicant 2/State.

CORAM: **ROHIT B. DEO AND ANIL L. PANSARE, JJ.**
DATE: **28th SEPTEMBER, 2022.**

ORAL JUDGMENT: (Per : Rohit B. Deo, J.)

The non-applicant 2 Mr. Sunil Anandrao Kamble is a physically challenged person. Crime 105/2020 is registered at Rana Pratap Nagar Police Station, Nagpur City, Nagpur, for offence punishable under sections 325, 504 read with section 34 of the Indian Penal Code (“IPC”) on the basis of oral report lodged by non-applicant 2 on 26.5.2020.

2. The alleged incident occurred on 28.2.2020 while the personnel from the Nagpur Municipal Corporation were laying pavement blocks. It is not necessary to spell out the details of the altercation. Suffice it to note, that according to the non-applicant 2, applicants Mrs. Prabha Lokhande and Mrs. Varsha Nagrare, aged 77 yrs and 47 yrs, respectively, abused him. Applicant 3 Mr. Abhishek Vinayak Nagrare, who is the son of Mrs. Varsha Nagrare then entered the fray and brutally assaulted non-applicant 2. It appears that initially the complaint was treated as disclosing non-cognizable offence and it was only after the non-applicant 2 availed medical treatment, and lodged structured report on 26.5.2020 that the crime is registered.

3. We have perused the material on record. We have no hesitation in holding that there is more than ample prima facie

material against applicant 3 Mr. Abhishek Nagrare. The accusation is that he brutally assaulted a physically challenged person, who is twice his age. We therefore, hold that case for trial is made out against Mr. Abhishek Nagrare, and there is no reason to interfere with the registration of offence.

4. In so far as Mrs. Prabha Lokhande and Mrs. Varsha Nagrare are concerned, neither the oral report nor the statements of witnesses, one of whom is the brother of the complainant/victim, disclose the nature of the alleged abuse. All that is said by the witnesses is that Mrs. Prabha Lokhande and Mrs. Varsha Nagrare used abusive language. We are satisfied that even if the entire material in the chargesheet is taken at face value, offence punishable under section 504 of IPC is not made out, particularly, since it is not even the case of the prosecution that the applicants 1 and 2 insulted the complainant with the intention that the complainant is provoked into committing breach of the public peace.

5. We therefore, allow this application partly and quash Crime 105/2020, registered at Rana Pratap Nagar Police Station, Nagpur City, Nagpur, for offence punishable under sections 325,

504 read with section 34 of the Indian Penal Code to the extent of applicants 1 and 2. The trial shall proceed against applicant 3 Mr. Abhishek Vinayak Nagrare.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)

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