

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (APPP) NO.1256 OF 2022**  
**IN**  
**CRIMINAL APPLICATION (ABA) NO.566 OF 2022**

Kunal S/o Subhasappa Bondre .Vs. State of Maharashtra, through P.S.O., P.S. Chikhli,  
Dist. Buldhana

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

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Shri A.S. Mardikar, Senior Advocate a/w Shri Digvijay Singh, Adv. for the applicant.

Shri S.A. Ashirgade, A.P.P. for the non-applicant/State.

Ms Radhika Bajaj, Advocate (Assist to Prosecution).

**CORAM : ANIL S. KILOR, J.**

**DATED : 06/09/2022**

1. This is an application filed under Section 482 of the Code of Criminal Procedure by Advocate Shri Nirmal Sawle who appeared on behalf of the applicant before the trial Court, for expunging the remarks made in Paragraph Nos.29 to 35, against him by the learned trial Court.

2. Shri Mardikar, learned Senior Advocate submits that the remarks are based on personal perception of the learned Judge about the applicant. He submits that the applicant is a renowned and highly respected lawyer of Buldhana, having a practice of more than 40 years and there is not a single instance in past, of passing of such remarks against the applicant.

3. He further submits that no notice was served upon the applicant, showing such intention by the learned Judge and calling explanation from the applicant. He, therefore, submits that the application may be allowed and the remarks passed against the applicant in Paragraph Nos.29 to 35, may be expunged.

4. The learned APP and the learned counsel for the complainant have no objection if the present application is allowed.

5. I have perused the remarks of the learned trial Court recorded against the applicant in Paragraph Nos.29 to 35 of the order dated 21.07.2022.

6. The Hon'ble Supreme Court of India in a similar case of *Neeraj Garg Vs. Sarita Rani and ors.etc. Dated 02.08.2021 passed in Civil Appeal Nos.4555 – 4559 of 2021*, has observed thus:

*“15. While it is of fundamental importance in the realm of administration of justice to allow the judges to discharge their functions freely and fearlessly and without interference by anyone, it is equally important for the judges to be exercising restraint and avoid unnecessary remarks on the conduct of the counsel which may have no bearing on the adjudication of the dispute before the Court.*

*16. Having perused the offending comments recorded in the High Court judgments, we feel that those could have been avoided as they were unnecessary for deciding the disputes. Moreover, they appear to be based on the personal perception of the learned Judge. It is also apparent that the learned Judge did not, before recording the adverse comments, give any opportunity to the Appellant to put forth his explanation. The remarks so recorded have cast aspersion on the professional integrity of the appellant. Such condemnation of the Counsel, without giving him an opportunity of being heard would be a negation of the principles of audi alteram partem. The requisite degree of restraint and sobriety expected in such situations is also found to be missing in the offending comments.*

*17. The tenor of the remarks recorded against the appellant will not only demean him amongst his professional colleagues but may also adversely impact his professional career. If the comments remain unexpunged in the court judgments, it will be a cross that the Appellant will have to bear, all his life. To allow him to suffer thus, would in our view be prejudicial and unjust.”*

7. The facts that the applicant is a renowned and respected advocate, having a standing of more than 40 years in the bar and there is not a single instance in the past, of recording any such remarks against the applicant about his behaviour in the Court, sufficiently show that the remarks

made against the applicant by the trial Court in Paragraph Nos.29 to 35 are nothing but the personal perception of the learned Judge about the applicant.

8. Furthermore, no opportunity was given to the applicant to put forth his explanation, by disclosing the intention as regards passing of any such remarks against the applicant, by the learned trial Court. Thus, the remarks are unwarranted and suffer from non-observance of principle of natural justice. Accordingly, the criminal application is **allowed**.

9. The remarks made against the applicant in Paragraph Nos.29 to 35 of order dated 21.07.2022, passed in ABA No. 228 of 2022, by the Additional Sessions Judge, Buldhana, are hereby expunged.

[ANIL S. KILOR, J.]