

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

CRIMINAL WRIT PETITION 57 OF 2022

1. Shri Mannuji s/o. Pancham Mehune,
aged 52 yrs, Occ. Agriculturist,
2. Shri Shrikant s/o. Shankar Mehune,
aged 29 yrs, Occ. Agriculturist,
3. Shri Prashant s/o. Shankar Mehune,
Aged 28 yrs, Occ. Agriculturist,

Nos. 1to3 all r/o. Post Patgowari,
Nayakund, Tahsil Ramtek,
District Nagpur.

....PETITIONERS

..VERSUS..

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Ramtek,
Tahsil Ramtek, District Nagpur
2. Shri Vilas s/o. Baburao Kendre,
Aged 41 yrs, Occ. Service,
c/o. Police Station, Ramtek,
Tahsil Ramtek, District Nagpur.
3. Shri Shivaji Borkar,
Aged Major, Occ. Service,
c/o. Police Station, Ramtek,
Tahsil Ramtek, District Nagpur.
4. The Superintendent of Police,
Nagpur (Rural), Civil Lines,
Nagpur.

....RESPONDENTS

Mr. A.C. Khare, counsel for petitioners.
Mr. S.S. Doifode, APP for respondents 1 & 4.

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

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

The petitioners are invoking jurisdiction under Articles 226 and 227 of the Constitution of India and section 482 of the Code of Criminal Procedure (“Code”) seeking quashment of the First Information Report 438/2021, dated 5.10.2021 on the basis of which offence punishable under sections 353,332,504,506 read with section 34 of the Indian Penal Code is registered at Police Station Ramtek, District Nagpur, and the final report 13/2022, dated 5.10.2021 is filed under section 173(2) of the Code.

2. Shorn off unnecessary details, the conspectus of the allegations on the basis of which the crime is registered is that on the date of the incident, the complainant police constable Mr. Vilas Kendre was posted at the polling booth 51, at mouza Patgowari, in connection with the Panchayat Samiti bye-election of 2021. An altercation ensued between the first informant and accused 1 Mr. Monu Pancham Mehune. The first informant alleges that accused 1 turned violent when he was told that he would have to park his vehicle beyond hundred meters from the polling

booth. According to the first informant, accused 1 caught hold of his uniform collar and manhandled him. The first informant further states that he used mild force against accused 1 to bring the situation under control. The first informant then states that two residents of the village and one security personnel Mr. Rahul Thote intervened and put an end to the physical altercation.

3. Considering that the allegations in the First Information Report qua the accused 1 are specific, and this version appears to be consistent in the statements recorded during the course of investigation, we are not inclined to interfere at the behest of accused 1. We relegate accused 1 to apply for discharge, and if such application is preferred, the same shall be considered on its own merit.

4. In so far as accused 2 and 3 are concerned, even according to the first informant, they arrived at the scene after the physical altercation ended with the mediation of the persons referred to supra. The first informant alleges that respondents 2 and 3 used an abusive word (which translated in vernacular broadly means “womanizer”) and threatened the first informant that they would ensure that he loses his job. Presumably, on the basis of such

allegation, the penal provisions of sections 504 and 506 of Indian Penal Code (“IPC”) are invoked.

5. We have no hesitation in holding that the penal provisions of sections 504 and 506 IPC do not come into play, even if the entire First Information Report is taken at face value.

6. Sections 504 and 506 of IPC read thus:

504. Intentional insult with intent to provoke breach of the peace — Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Classification of Offence. - The offence under this section is non-cognizable, bailable, compoundable and triable by any Magistrate.

506. Punishment for criminal intimidation — Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Classification of Offence – The offence under this section for criminal intimidation is non-cognizable, bailable, compoundable and triable by any

Magistrate. If threat be to cause death or grievous hurt, etc, it is triable by Magistrate of the first class.

7. Section 504 is not attracted in as much as it is not even the case of the prosecution that there was any insult hurled with the intention of provoking the first informant, who is a police officer, to cause him to breach the public peace or to commit any other offence. In so far as section 506 is concerned, criminal intimidation is defined in section 503, which read thus:

503. Criminal intimidation — Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

8. In the factual matrix, we are not in a position to appreciate how the words used or the statement that accused 2 and 3 shall ensure that the first informant loses his job, would amount to criminal intimidation.

9. Having so observed, we have no hesitation in allowing the petition in so far as accused 2 and 3 are concerned. We quash

the First Information Report 438/2021, dated 5.10.2021 and the Chargesheet 13/2022, dated 5.10.2021, to the extent of the accused 2 and 3.

10. The petition is partly allowed.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)

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