

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

CRIMINAL APPLICATION (APL) NO. 787/2023

Kishor s/o Pandurang Landkar,
aged about 27 yrs., Occ. Agriculture,
R/o. Mozri, Tal. Mangrulpir,
Dist. Washim.

.....APPLICANT.

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Mangrulpir,
Dist. Washim.
2. Ganesh S/o. Shankar Bhagat,
Aged about 26 yrs, Occ. Business,
R/o. Pimpri Kharbi, Mangrulpir,
Dist. Washim.

..... NON-APPLICANTS

Mr. S. S. Dhengale, Advocate for applicant.
Mr. N.R. Rode, APP for non-applicant No.1.
Mr. P. S. Wathore, Advocate for non-applicant No.2.

CORAM : **VINAY JOSHI AND**
VALMIKI SA MENEZES JJ.

DATE : **12.07.2023**

ORAL JUDGMENT : (PER VINAY JOSHI, J.)

Heard finally by the consent of both learned counsel
appearing for the parties.

2. This is an application in terms of Section 482 of the Code of
Criminal Procedure seeking to quash First Information Report ('FIR')

registered with Mangrulpir Police Station, Dist. Washim vide Crime No. 206/2023 for the offence punishable under Sections 295-A of the Indian Penal Code, Section 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ('SC and ST Act') and Section 67-A of the Information Technology Act, 2000.

3. It is informant's case that on 23.03.2023 around 03.00 p.m., he has checked WhatsApp status of the applicant, whereby the applicant posed a question to be searched on Google. It was added in status that one would get shocking result on search. In pursuance of that the informant did Google search on which noted the objectionable material amounting to outraging the religious feeling of a Class therefore, the report.

4. It is applicant's case that neither he intended nor deliberately displayed said status to outrage the feeling of a Class. According to the applicant, WhatsApp status can only be seen by the persons who have saved applicant's mobile number and therefore, he has no intention to harm feeling of particular group. Moreover, it is submitted that neither the provisions of SC and ST Act nor the provision of Section 67-A of the Information Technology Act would apply.

5. The State has resisted the application by filing reply-affidavit. It has been stated that the applicant is habitual offender having criminal

antecedents. According to the State, on perusal of statements and material collected by the Investigating Officer, prima facie case is made out. The investigation is still in progress. FIR clearly makes out a case for investigation, hence it is not a case for quashing.

6. We have examined the entire material on record. Noted the contents of the Police Report as well as the result found by the informant on making Google search as per WhatsApp Status. Apparently, the WhatsApp status instigate others to do Google search and read what applicant intends. WhatsApp status can be a picture or video of what you are doing thinking or something you have seen. By status you share is end-to-end in encrypted text, photo, video and updates that disappears after 24 hours. The very purpose of WhatsApp status is to convey something to his contacts. It is nothing but a mode of communication with known persons. One puts up the status in order to get a reaction and most of them crave for support. Now a days, the people are checking WhatsApp status now and then. One should behave with sense of responsibility while communicating something to others. The applicant cannot shed his primacy responsibility by saying about its limited circulation. There is no justification for the applicant to display such kind of status. Contents of FIR prima facie, discloses applicant's deliberate and malicious intention to insult the feeling of a group.

7. It is settled law that inherent powers under Section 482 of the Code though wide, have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the test specifically laid down in the section itself. There is no denial that the applicant has kept the mobile WhatsApp status as alleged in the FIR. The investigation is in embryos stage and therefore, this is not a fit case to invoke our inherent powers. In view of that, application carries no merits, hence rejected.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Gohane