



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

Criminal Application (APL) No.850/2021
(Gopal V State of Maharashtra and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Pavan P. Sarise, Advocate h/f Mr. R.J. Shinde, Advocate for applicant.
Mr. Doifode, APP for State.

CORAM : Smt. Vibha Kankanwadi & Mrs. Vrushali V. Joshi, JJ
DATE : 19-06-2024.

The present application has been filed under Section 482 of the Code of Criminal Procedure for quashing of proceedings bearing RCC No.106/2020 arising out of Crime No.301/2019 by Police Station Daryapur for the offence punishable under Sections 353, 294 and 504 of the Indian Penal Code (for short, the "IPC")

2. Heard learned Advocate for the applicant and learned APP for non-applicant no.1.

3. The investigation is complete. The chargesheet is filed and the entire chargesheet is made available. Taking into consideration the contents, it is not even necessary to issue notice to non-applicant no.2.

4. The non-applicant no.2 is the Tahsildar serving at Daryapur. The contents of the First Information Report (FIR) lodged by him would disclose that, the present applicant had given him information regarding illegal transportation of trucks and the

hot-mix vehicles on the road. It is stated that when the phone call was given by the applicant, the informant informed the applicant that he would send a Police officer. However, after the Police officer reached there, it is alleged that the applicant insisted that the informant should come to the place and from the phone of the Police officer he had given abuses and also threatening. Thereafter, the informant went to the spot where the applicant was waiting and then the applicant started asking him as to why he has come late. He made allegations that the Police officers as well as the informant take '*Hafta*' and do not do the work. The informant states that he asked the truck drivers to take their trucks to the Tahsil Office, but then the applicant had intercepted and insisted that the trucks should not be taken there as he had stopped them. The present applicant had rushed towards the person of the informant, then the other persons separated or restrained the applicant.

5. Taking into consideration the contents of the said FIR which has been supported by the statements of the witnesses, would clearly show that *prima facie* the ingredients of the offence under Section 353 and 504 of the IPC are transpiring.

6. However, as regards the ingredients of Section 294 of the IPC are concerned, it makes the act punishable, if the accused causes annoyance to others by any obscene act in a public place or

sings, recites or utters any obscene song, ballad or words in or near any public place can be punished. Here, the said conversation was on telephone of API Ingle and the words uttered are "तुम्ही माय झवायला तहसिलदार झाले काय". At the most, it can be said that these words are abuses and therefore *prima facie* the ingredients of Section 294 of the IPC are not made out. The application, therefore, deserves to be allowed partly. Hence, the following order is passed.

- i) Application is hereby allowed partly.
- ii) FIR bearing Crime No.301/2019 dated 13-12-2019 and the charge-sheet filed in RCC No.106/2020 pending before the competent Court, is hereby quashed and set aside to the extent of Section 294 of the IPC only.
- iii) We clarify that the proceedings to continue for the offence punishable under Sections 353 and 504 of the IPC and if the charge is not yet framed, then the concerned Court may frame the charge as per the procedure.

(Mrs. Vrushali V. Joshi, J.)

(Smt. Vibha Kankanwadi, J.)