



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

CRIMINAL APPLICATION (APL) NO. 63 OF 2024

Aatif Ali Meer Athar,
Aged about 30 yrs, Occ. Student,
R/o. Kaynat Cottage Block No. 13,
Near Atlas Park Ganga Nagar,
Akola

..... **APPLICANT**

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

1. The State of Maharashtra,
Through PSO Old City, Akola

2. Syed Mateen Syed Jamir,
Aged about 40 yrs, Occ. Business,
R/o. House No. 20, Kaynat Cottage,
Ganga Nagar, Old City, Akola

.....**NON-APPLICANTS**

Mr. Z.Z. Haq, Advocate for applicant.
Mr. U.R. Phasate, APP for respondent No.1 /State
Mr. M.R. Deshmukh, Advocate for respondent No.2.

CORAM:- VINAY JOSHI & ABHAY J. MANTRI, JJ.

DATE : 17.10.2024

JUDGMENT (Per : Vinay Joshi, J.)

Heard. Rule. Rule made returnable forthwith. Heard
finally with consent of learned Counsel for the parties.

2. By this application under Section 482 of the Code of
Criminal Procedure, the applicant is seeking to quash and set aside

the First Information Report (FIR) No. 483/2023, registered at Old City Police Station, Akola, for offence punishable under Sections 294 and 506 of the Indian Penal Code.

3. The applicant's contention that after registration of FIR by the applicant on following day, the existing report has been maliciously lodged. On merits, it is argued that the contents of FIR do not disclose the ingredients to constitute an offence punishable under Sections 294 and 506 of the IPC for which crime has been registered.

4. Learned APP appearing for respondent No. 1/State as well as the learned Counsel appearing for respondent No. 2 informant have opposed the application by contending that the material which is available on record constitutes an offence and thus it is a matter of trial to appreciate the material on record.

5. We have been taken through the contents of FIR wherein besides a general abuses, there is nothing from which it could be construed that there is use of obscene words. The learned Counsel for the applicant specifically relied on the decision of the Hon'ble

Supreme Court in the case of *N.S. Madhanagopal and Another Vs. K. Lalitha [(2022)17 SCC 818]* with emphasis on the observations made in paragraph Nos. 7 and 8 of the decision. Our attention is invited to the portion where it has been observed that mere abusive, humiliating or defamatory words by itself cannot attract an offence punishable under Section 294(b) of the IPC. Plain reading of the FIR discloses that besides two words namely, “हरामखोर” and “मादरचोद”, there is nothing which could display the obscene words that too, to the annoyance of others. The FIR further disclose that general allegations have been made about giving life threats without specifying the details.

6. In above context, we have considered the incident as a whole. Undisputedly, the alleged occurrence took place on 14.12.2023 at around 11.00 a.m. and on the very same day, in the evening, the applicant himself has lodged report leveling similar allegations against the informant. However, apparently after 24 hours regarding the same incident with same contents the informant lodged similar report which speaks for itself.

7. We have also gone through the case diary which speaks similarly as per the contents of FIR. The essence of Section 294(b) of the IPC is that the obscene words must have tendency to corrupt by arousing a lustful desires which is totally absent in the words allegedly uttered by the applicant. Thus, this case squarely falls in the criteria Nos. 1 and 3 of the guidelines issued by the Hon'ble Supreme Court in the case of *State of Haryana Vs. Bhajan Lal* [AIR (1992) SC 604].

In view of above, the application is allowed.

The First Information Report (FIR) No. 483/2023, registered at Old City Police Station, Akola, for offence punishable under Sections 294 and 506 of the Indian Penal Code, is hereby quashed and set aside.

(ABHAY J. MANTRI, J.)

(VINAY JOSHI, J.)