



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.597 OF 2024

Sanjay S/o Vaman Tribhuwan,
Age-48 years, Occu:Service,
R/o-Shirdi, Tq-Rahata,
Dist-Ahmednagar.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Police Station, Shirdi,
Tq-Rahata, Dist-Ahmednagar,
- 2) Vidya W/o Prasad Shelke,
Age-30 years, Occu:Advocate,
R/o-Hotel Swapnil, J.T. Shelke Patil
Marg, Pimpalwadi Road, Shirdi,
Tq-Rahata, Dist-Ahmednagar.

...RESPONDENTS

...
Mr. Sidhesh V. Jadhavar Advocate for Applicant.
Ms. P.R. Bharaswadkar, A.P.P. for Respondent No.1.
Mr. Shyam C. Arora Advocate for Respondent No.2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
R.W. JOSHI, JJ.**

DATE : 8th JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the

proceedings in R.C.C. No. 117 of 2023 pending before the learned Judicial Magistrate First Class, Rahata, District-Ahmednagar, for the offence punishable under Sections 354-D, 170 read with Section 34 of the Indian Penal Code, arising out the First Information Report (in short "the FIR") vide Crime No.117 of 2022 registered with Police Station, Shirdi, Taluka-Rahata, District-Ahmednagar.

2. Heard learned Advocate Mr. Jadhavar for applicant, learned APP Ms. Bharaswadkar for respondent No.1 and learned Advocate Mr. Arora for respondent No.2. In order to cut short, it can be stated that the learned Advocates for the respective parties have argued in support of their contentions.

3. Perusal of the FIR would show that it is lodged against two persons i.e. present applicant as well as one Rohit Uttam Gadkar. The incident is stated to have taken place wherein present applicant is involved, is on 25th March 2022. Taking into consideration the scope of Section 482 of the Code of Criminal Procedure, to the extent of involvement of the applicant, we are considering only that much portion of the FIR. Though the offence that is registered is under Sections 354-D, 170 read with

Section 34 of the Indian Penal Code, the involvement of the applicant, as alleged from the FIR, is not for the offence under Section 354-D of the Indian Penal Code. Further, there cannot be a common intention for committing offence under Section 354-D of the Indian Penal Code. Individual acts are then required to be considered.

4. The informant, respondent No.2 says that after she had received the alleged phone call at night time, it was picked up by her husband but nobody was talking from the other side. From the same mobile then she received a obscene message. The prosecution case is clear that the said mobile is not belonging to the present applicant. The informant then says that on the next day around 10.00 a.m., she along with her husband went to S.S.K. Car Washing Center where applicant was present. The Car Washing Center belongs to the applicant. Informant's husband asked the applicant to call the labour by name Rohit from the Washing Center. Thereupon, the applicant told that there is no such labour by this name. But then her husband gave mobile number of accused No.1 Rohit. Thereupon applicant called Rohit from the mobile of the husband of the informant and then applicant was saying that he is talking from the police station

and Rohit should come to the police station. Informant's husband asked applicant that why he is talking in this language, otherwise said Rohit would run away. But, still two to three times applicant told said Rohit that he should come to the police station and he should bring his employer if he needs. Informant's husband asked that when Rohit is applicant's labour then why he is saying that Rohit should bring the employer. At that time the applicant did not say anything. Informant's husband asked the applicant to give identity card of Rohit, whereupon applicant told that he is not having anything. Then informant's husband told that he would go to the police station. Thereafter the applicant had given Rohit's Aadhaar Card and PAN Card on the WhatsApp of the mobile of the informant's husband.

5. Taking into consideration these averments in the FIR, it cannot be said that it attracts the offence under Section 170 of the Indian Penal Code. Section 170 of the Indian Penal Code penalizes personating a public servant. It prescribes that whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office and in such assumed character does or attempts to do any act under colour

of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Here what was told by the applicant as per the FIR is that he was talking from the police station. It is not stated from which police station he was talking, nor it was told by the applicant that he is a police officer of a particular rank. To which police station he was calling Rohit is also not forthcoming from the FIR. Further, even if we take the contents of the FIR as it is, yet it does not appear that the intention of the applicant behind saying so was to do any such act detrimental to the interest of the informant. Rather, applicant was trying to help them and this can be seen from his subsequent act whereupon he had given the Aadhaar Card as well as PAN Card of Rohit on the WhatsApp of the mobile of the informant's husband.

6. Therefore, with these allegations it would be unjust to ask the applicant to face the trial. This is a fit case where we should exercise our inherent powers. Hence we pass following order:-

ORDER

(I) The Applications stands allowed.

(II) The proceedings in R.C.C. No. 117 of 2023 pending before the Judicial Magistrate First Class, Rahata, District-Ahmednagar, for the offence punishable under Sections 354-D, 170 read with Section 34 of the Indian Penal Code, arising out the First Information Report vide Crime No.117 of 2022 registered with Police Station, Shirdi, Taluka-Rahata, District-Ahmednagar, stands quashed and set aside as against applicant – Sanjay S/o Vaman Tribhuwan.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN25