



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 CRIMINAL APPLICATION NO. 638 OF 2025

Aniket Anilrao Joshi,
Age 35 yrs., Occ. Service
(Manager in HDFC Bank)
R/o Vishweshwar Nagar,
Bhakti Construction, Beed.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Investigating Officer,
Police Station, Peth Beed,
Dist. Beed
- 2 Jyoti Mohan Mundhe,
Age 33 yrs., Occ. Business (Contractor),
R/o Dhanora Road, Sant Namdev Nagar,
Dist. Beed.

... Respondents

...

Mr. G.L. Deshpande, Advocate for applicant
Mr. G.A. Kulkarni, APP for respondent No.1
Mr. A.L. Kanade, Advocate for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 10th JULY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for quashing First Information Report vide Crime No.28/2025 dated 18.01.2025 registered with Police Station, Peth Beed, Tq. & Dist. Beed, for the offence punishable under Section 74, 75 of the Bharatiya Nyaya Sanhita, 2023.

2 Heard learned Advocate Mr. G.L. Deshpande for applicant, learned APP Mr. G.A. Kulkarni for respondent No.1 and learned Advocate Mr. A.L. Kanade for respondent No.2.

3 Learned Advocate for applicant has taken us through contents of First Information Report and submits that ingredients of offence punishable under Section 74 of the Bharatiya Nyaya Sanhita have not been attracted, so also as regards the ingredients of Section 75 of the Bharatiya Nyaya Sanhita there is no assault, that is, use of criminal force by the applicant. Applicant is a Branch Manager of the Bank where respondent No.2 had taken a policy, however, as regards purchase of policy is concerned, applicant was not in picture. Applicant is being harassed by respondent No.2 as she wants now to cancel her policy, when in fact, she has received the benefit under the policy itself. The day, on which the alleged offence has taken place as stated in First Information Report, is in fact Sunday, when the bank remains closed. There

is only one door to the bank and it is impossible that any such incident would have taken place. Respondent No.2 had issued notice dated 01.01.2025 to the bank as well as to applicant alleging that her amount should be returned, as according to her, there was some misrepresentation. Learned Advocate appearing for applicant relies on the decision in **Dilip Uttam Lomate vs. The State of Maharashtra** [(2019) ALL MR (Cri.) 3206], wherein from the facts of the case i.e. touching the hands of the informant therein it cannot be stated that there was the offence of outraging of modesty. He further relies on the decision in **Mahmood Ali and others vs. State of U.P and others** [2023 LiveLaw (SC) 613], wherein it has been observed that -

“12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose

the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

He submits that he has CCTV footage from the CCTV that has been installed in the bank which would prove his innocence. Further, there is huge unexplained delay in lodging the report. Alleged incident had occurred on 30.06.2024 and First Information Report has been lodged on 18.01.2025.

4 Learned APP appearing for respondent No.1 and learned Advocate appearing for respondent No.2 strongly opposed the application and submit that investigation is not yet completed and possibilities of

recording statements of witnesses cannot be ruled out. Only on the basis of communication it cannot be stated that no such incident would have happened. It would then be a premature observation.

5 At the outset, we would like to say that the investigation is still going on. In **Dilip Lomate** (supra) the investigation was over and entire charge sheet was before the Division Bench of this Court to consider all the facts. Certainly, the observations from **Mahmood Ali** (supra) are binding upon this Court, however, we find that whatever material has been placed on record is not sufficient to arrive at the ulterior motive as wreaking vengeance. In fact, the applicant ought to have waited for the charge sheet to be filed, which would have clearly brought on record the facts. Now, as regards Section 74 of the Bharatiya Nyaya Sanhita is concerned, the ingredients might not be attracting, but for Section 75 of the Bharatiya Nyaya Sanhita those are certainly attracting, when there is unwelcoming sexual advancement, those are stated to have been uttered. Ultimately, if the charge sheet is filed, then the concerned Court would certainly see as to which offences are made out and then may not even take cognizance of one of the offences i.e. Section 74 of B.N.S. It cannot be then the point for quashing First Information Report at the initial stage. Delay cannot be the sole ground for quashing First Information Report as the delay is explainable. Now,

whether on that day there was the Sunday would depend upon the investigation and also the applicant has right to challenge the said fact. Possibility of supplementary statement in this respect of respondent No.2 cannot be ruled out. The CCTV footage which is available with the applicant cannot be considered here, as the documents which may be containing electronic evidence cannot be considered at the stage of Section 528 of the B.N.S.S. It is for the applicant to prove if the case stands.

6 Taking into consideration the allegations and the material we are of the opinion that it would be a premature stage to quash First Information Report, but we are of the opinion that there has to be an investigation. We need not go into the aspect as to what was the exact transaction of the bank with respondent No.2 and what respondent No.2 wanted subsequently. All these facts would require evidence, which cannot be gone into under the inherent powers and the stage at which the present application has been filed. The application, therefore, stands rejected.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)