



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 CRIMINAL WRIT PETITION NO.741 OF 2025

Ajay Chainsingh Rajput,
Age 30 yrs., Occ. Business,
R/o Indraprasth Housing Society,
Pundlik Nagar, Aurangabad.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Police Station, Satara,
Tq. & Dist. Aurangabad.
- 2 Anita Ajay Rajput,
Age 40 yrs., Occ. Household,
R/o Amrutsahara City, B-1,
Kanchanwadi, Aurangabad,
Tq. & Dist. Aurangabad.

... Respondents

...

Mr. P.S. Dikle, Advocate for petitioner

Mr. V.K. Kotecha, APP for respondent No.1

Mr. A.D. Sonkawade, Advocate for respondent No.2

...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 20th SEPTEMBER, 2025

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

. Present petition has been filed for quashment of the proceedings in Summary Criminal Case No.23045 of 2024 pending before learned Judicial Magistrate First Class, Aurangabad arising out of First Information Report vide Crime No.334/2021 dated 06.07.2021 registered with Police Station, Satara, Tq. & Dist. Aurangabad, for the offence punishable under Section 294, 504, 506 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. P.S. Dikle for petitioner, learned APP Mr. V.K. Kotecha for respondent No.1 and learned Advocate Mr. A.D. Sonkawade for respondent No.2.

3 Perusal of First Information Report would show that only the offence under Section 294 of the Indian Penal Code is cognizable offence and other offences are non cognizable and, therefore, we are required to consider as to whether the ingredients of Section 294 of Indian Penal Code are attracted from the facts of the case i.e. from First Information Report and the material that has been collected during the investigation.

4 The informant says that she got married with petitioner in 2017. Their marriage is love marriage. She has filed petition under Domestic

Violence Act against petitioner and it is still pending, therefore, she lives at her parental home since 2019. On 03.07.2021 at about 3.30 p.m. when she was at her parents house, petitioner went there and threatened her to withdraw the case pending and abused her in filthy language. He also threatened that if she did not withdraw the case pending, he would kill her and her child. She further states that petitioner always used to phone her and abuse her and her parents, which according to the prosecution are amounting to obscene words. As aforesaid, we are considering only Section 294 of the Indian Penal Code, which reads thus :

“294. Obscene acts and songs. - Whoever, to the annoyance of others,
(a) does any obscene act in any public place, or
(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,
shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

5 Further, we would like to rely on the decision in **Pawan Kumar v. State of Haryana** [(1996) 4 SCC 17], wherein it has been held that “in order to secure a conviction, the provisions of Section 294 of the Indian Penal Code require two particulars to be proved by the prosecution, namely: (i) the offender has done any obscene act in any public place or has sung, recited or uttered any obscene song or word in or near any public place; and (ii) has so

caused annoyance to others. If the act is not obscene, or is not done in any public place, or the song recited or uttered in or near any public place or that it causes no annoyance to others, no offence is committed.” Though it is stated that these ingredients are for securing conviction, yet we take it further so that even for taking cognizance, those ingredients will have to be *prima facie* shown. Now, as regards the abuses those have been quoted in order to say that they are the obscene words, we will have to then consider what is obscene. The word obscene has not been defined under the Indian Penal Code, but we would then like to rely on the decision in **Aveek Sarkar and another v. State of West Bengal and others** [AIR 2014 SC 1495], wherein it is held by the Hon’ble Supreme Court that word “obscene” will have to be then considered as an act or using of the word, which is affecting the furious feelings of the public. For the sake of arguments, for a while, if in the present case, the words those have been used are considered as obscene, yet then further ingredients will have to be then shown by the prosecution that it has caused annoyance to others. Basically, as per First Information Report and spot panchnama, the incident has taken place inside the house, therefore, there is no question of annoyance to others. Even if cognizance would have been taken by trial Court, it would be without application of mind as the ingredients are not fulfilled. Therefore, it would be an abuse of process of law, if the petitioner is asked to face the trial. Case is made out for exercise

of powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Writ Petition stands allowed.
- ii) The proceedings in Summary Criminal Case No.23045 of 2024 pending before learned Judicial Magistrate First Class, Aurangabad arising out of First Information Report vide Crime No.334/2021 dated 06.07.2021 registered with Police Station, Satara, Tq. & Dist. Aurangabad, for the offence punishable under Section 294, 504, 506 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant viz. **Ajay Chainsingh Rajput**.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

agd