



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2353 OF 2023

Santosh s/o Bhanudas Jadhav,
Age: 35 years, Occ.: Agri.,
R/o: Shankar Nagar, Pathardi,
Tal. Pathardi, Dist. Ahmednagar.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through the Investigating Officer,
Amalner Police Station,
Tq. Patoda, Dist. Beed.
2. Goraksha s/o Baban Palve,
Age: 55 years, Occ.: Service as
A.P.I. at presently working at
Amalner Police Station,
Tq. Patoda, Dist. Beed

... Respondents
(Org. Informant)

...
Mr. Arvind G. Ambetkar, Advocate for Applicant.
Mr. G. A. Kulkarni, APP for Respondents.
...

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

DATE : 17th July, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing of the proceedings in R.C.C No.261 of 2024, pending in the Court of the Judicial Magistrate First Class, Ashti, District Beed, for the offences punishable under Sections 341, 353, 379 and 504 read with 34 of the Indian Penal Code, 1860 (for short “the IPC”), arising out of FIR bearing Crime No.19 of 2023, dated 4th February, 2023, registered with Amalner Police Station, District Beed, for the offences punishable under Sections 341, 353 and 379 read with 34 of the IPC.

3 The informant averred in the report that he is posted as the Officer-in-Charge at Police Station Amalner, District Beed, for the past one and a half years. On 3rd February, 2023, around 10:39 am, as per Station Diary Entry No.12, he alongwith Police Constable Driver No.807 Bhagat, proceeded towards the village Patsara area in an official government vehicle bearing registration No.MH-23-F-5209. The purpose of their visit was to conduct investigation in relation to Crime No.117 of 2022, registered under Section 304-A of the IPC and Crime No.12 of 2023, registered under Sections 394 and 511 read with 34 of the IPC.

4 The informant further averred that while searching for the

unknown accused and the stolen property in the areas of Patsara, Pangra, Morala and Mahinda, they reached Mahinda Chowk, where they observed a six-wheeled Tata Company tipper truck, without a registration number, loaded with sand, approaching from the opposite direction. Upon stopping the said tipper, the informant inquired with the driver regarding the sand transportation permit. The driver admitted that he did not possess any such permit. When the informant asked for the driver's name, two unknown individuals arrived on a motorcycle bearing registration No.MH-16-AS-6635 and parked their motorcycle in front of the government vehicle and they helped the driver of that tipper to run away. The driver of the tipper proceeded fast by Pathardi Road. The informant and his colleague attempted to pursue the said tipper, however, because of the motorcycle rider, who was riding that motorcycle in front of the government vehicle in a zigzag manner, the tipper driver fled in a high speed and absconded.

5 The informant further averred that the two individuals on the said motorcycle began shouting loudly and abused the police. One of them openly declared himself as *Santosh Bhanudas Jadhav* (present applicant) and shouted, "*Do whatever you want,*" while continuing to hurl abuses. Thereafter, both individuals escaped from the scene on their motorcycle towards Pathardi Road.

6 The informant further averred that he, alongwith Senior Police Inspector Palve, then proceeded to Police Station Pathardi in the government vehicle, where a detailed report of the incident was submitted and noted in the station diary. They subsequently returned to Police Station Amalner, District Beed. Thereafter, the report was lodged.

7 The learned counsel for the applicant submitted that the applicant is falsely implicated in the crime. There is no cogent and acceptable material against him. Vague and general allegations are made against him. He lastly prayed to allow the application.

8 The learned APP for the respondents strongly opposed the application and submitted that the applicant is involved in a serious crime. His name is mentioned in the report. He abused the police. He has committed an anti-social crime. He lastly prayed to reject the applications.

9 Here, it would be apposite to refer to the judgment of Hon'ble Supreme Court in the case of ***N.S. Madhanagopal and others Vs. K. Lalitha, (2022) 17 SCC 818***, in which in paras 10 and 11, it is observed as under:-

"10. Section 341 of the IPC talks about punishment for wrongful restraint. Section 341 reads thus:

"341. Punishment for wrongful restraint - Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both."

11. The complaint also fails to disclose the necessary ingredients to constitute the offence of wrongful restraint. In order to attract application of Section 341 which provides for punishment for wrongful restraint, it has to be proved that there was obstruction by the accused; (ii) such obstruction prevented a person from proceeding in a direction to which he had a right to proceed; and (iii) the accused caused such obstruction voluntarily. The obstructor must intend or know or would have reason to believe that the means adopted would cause obstruction to the complainant."

10 We have perused the charge-sheet, particularly, the report and the statements of the witnesses. The witnesses have stated the similar facts as stated by the informant in his report.

11 On face value of the report itself, the story put forth by the informant is not found natural and probable. It was easy for the informant and others to catch the rider of the motorcycle, who had

parked the motorcycle in front of the government vehicle. The story of riding the motorcycle in a zigzag manner in front of the police vehicle is also improbable. To prove the wrongful restraint as defined in Section 339 of the IPC, voluntary obstruction by preventing that person from proceeding in any direction must be proved. However, no such reliable material to establish assault, criminal force to deter public servant from discharging his duty, is on record. There is also no material to prove essential ingredients of commission of theft of sand. It is also not establishing either from the report or from the statements of witnesses etc. Mere evidence of spot *Panchanama* which is corroborative in nature is not sufficient. The essential ingredients of Sections 341, 353, 379 and 504 of the IPC are not established against the applicant. Considering all these aspects and the reasons discussed above as well as the law laid down in ***N.S. Madhanagopal and others (supra)***, if the applicant is compelled to face the trial, it would be an abuse of the process of the Court. The case is made out for exercising our powers under Section 482 of the Cr.P.C. We are, therefore, inclined to allow the application, in the interest of justice and to prevent the abuse of the process of the Court. Hence, the following order:-

ORDER

- I. The application is allowed.

- II. The proceedings in R.C.C No.261 of 2024, pending in the Court of the Judicial Magistrate First Class, Ashti, District Beed, for the offences punishable under Sections 341, 353, 379 and 504 read with 34 of the Indian Penal Code, arising out of FIR bearing Crime No.19 of 2023, dated 4th February, 2023, registered with Amalner Police Station, District Beed, for the offences punishable under Sections 341, 353 and 379 read with 34 of the Indian Penal Code, stands quashed as against the applicant.

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[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]