



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 CRIMINAL APPLICATION NO.2968 OF 2023

Laxman Ashokrao Fulari,
Age 37 yrs., Occ. Service,
R/o Dipak Nagar, Nanded,
Tq. & Dist. Nanded.

... Applicant

... Versus ...

- 1 The State of Maharashtra
- 2 Pranita w/o Jaipal Reddy,
Age 30 yrs., Occ. Household & service,
R/o Abhijit Apartment, Vasahat Nagar,
Nanded, Tq. & Dist. Nanded.

... Respondents

...

Mrs. Sunita G. Chincholkar, Advocate for applicant
Mrs. Priya R. Bharaswadkar, APP for respondent No.1
Respondent No.2 – served

...

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

DATE : 18th JUNE, 2025

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

1 Present application has been filed initially for quashment of First

Information Report vide Crime No.43/2023 dated 15.02.2023 registered with Shivaji Nagar Police Station, Nanded, for the offence punishable under Section 452, 294, 323, 504, 506, 109 read with Section 34 of the Indian Penal Code, 1860 and later on by way of amendment for quashing the proceedings in Regular Criminal Case No.669/2024 pending before learned Judicial Magistrate First Class, Nanded.

2 Heard learned Advocate Mrs. Surekha G. Chincholkar for applicant and learned APP Mrs. Priya R. Bharaswadkar for respondent No.1. Respondent No.2 had served and had appeared in the matter through Advocate, however, pursis was only filed for discharge by learned Advocate. Thereafter, the concerned Advocate had withdrawn the Vakalatnama after adopting proper procedure. Again the notice was issued to respondent No.2 and that is also served. Still she failed to cause appearance.

3 Learned Advocate for applicant and learned APP for respondent No.1 have made submissions in support of their respective contentions.

4 Perusal of First Information Report lodged by respondent No.2 would show that the incident is alleged to have taken place around 9.00 p.m. on 14.02.2023. When she was inside her house, the door of her house was locked by some unknown person and, therefore, she opened the door, at that

time, she found co-accused Chandrakant Adhav, who entered her house along with said unknown person and asked for the husband of informant. She told that her husband's health is not proper and, therefore, they should come on some other day. She states that those two persons got annoyed and used obscene words and gave abuses to her. Thereafter, she herself and her husband drove said Chandrakant out of the house and then she states that after those two persons went outside the house, they shouted and told that they have been sent by the present applicant. They then asked that the husband of informant should take back the complaint against present applicant, otherwise all would be killed.

5 Now, taking the story in First Information Report as it is the material which is on record is the statement of husband of informant, supplementary statement of informant and statement of one Uttam Kamble. Admittedly, Uttam Kamble was not present when the incident took place, but according to him, the husband of informant had given information about the incident immediately on the same day. Taking into consideration the contents of First Information Report and statement of witness i.e. her husband, it can be seen that present applicant was not present at the spot at the time of incident. Therefore, ingredients of offence under Section 452, 394, 504 of the Indian Penal Code are not at all attracted against the

applicant. Now, it is the story by the informant and her husband that after those two persons went out of the house, they disclosed that they have been sent by present applicant. Now, in order to support this contention there is nothing on record. The CDR has been produced and learned APP strongly supports the fact that there were telephone calls between co-accused Chandrakant and present applicant during the relevant time. Here, it is to be noted that the CDR and SDR would only show that these two persons were in contact with each other and not beyond that. What is required to be proved by the prosecution here in this case is that he had sent or asked the co-accused to go and give threats to the husband of informant. At the most, we may say that in normal course there could have been provisions of Section 506 of the Indian Penal Code attracted, if there would have been a positive evidence. Even if we accept that the applicant would have sent those two persons to see that the husband of informant takes back his complaint; yet, the words would not have been controlled by the applicant. Interesting point to be noted is that in the statement of husband of informant he has come with a different story. He states that when he was taking rest in his bed room, two unknown persons directly went to his bed room and asked him that he should take back the case against the applicant, otherwise he would be killed. When the informant was giving understanding to those persons, at that time one of them used obscene words and gave abuses and then that

person said that whether they know Fulari i.e. present applicant, who is employed in Police Department, he is the man of Superintendent of Police and nobody can harm him. It is then tried to be said that those persons used the threats that informant should ask her husband to shut down his gymnastic class, otherwise face dire consequences. The informant's husband would be implicated in an offence. Thus, according to him, everything had happened inside the bedroom, which is not the case in First Information Report and not even when the supplementary statement of informant was taken. It appears that some professional rivalry emerged as per the informant and her husband between the husband and present applicant. According to them, the applicant used to take gymnastic classes unauthorizedly, though he was employed in Police Department. Informant's husband also used to take the gymnastic classes and, therefore, he was insisting that the informant's husband should shut down his classes. The possibility of false implication of applicant cannot be ruled out. Further, the informant says that when she opened the door, she saw accused Chandrakant Adhav. That means, she was knowing him, but her husband has not stated that he was knowing Chandrakant and Chandrakant had entered the bedroom. Another fact to be noted is that when the alleged use of obscene words is inside the house, it does not fulfil the ingredients of Section 294 of the Indian Penal Code, as those obscene words should be used in a public

place in order to bring the case under Section 294 of the Indian Penal Code.

6 Therefore, taking into consideration the scrutiny of the entire material in the charge sheet, it would be an abuse of process of law to ask the applicant to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No.669/2024 pending before learned Judicial Magistrate First Class, Nanded arising out of First Information Report vide Crime No.43/2023 dated 15.02.2023 registered with Shivaji Nagar Police Station, Nanded, for the offence punishable under Section 452, 294, 323, 504, 506, 109 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant **Laxman Ashokrao Fulari**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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