



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4269 OF 2025

1. Bhim S/o Narsing More,
Age :- 55 years, Occ.Agri.,
R/o Sawari, Tal.Nilanga,
District Latur.
2. Sakhu W/o Bhim More,
Age: 50 years, Occ.Household,
R/o as above.
3. Ganpat S/o Pandurang Shinde,
Age: 42 years, Occ.Agri.,
R/o As above.
4. Sunita W/o Ganpat Shinde,
Age: 37 years, Occ.Household,
R/o as above.

.. Applicants

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Aurad Shahajani,
Tal. Nilanga, District Latur.
2. Pooja W/o Sharad More,
Age 33 years, Occ.Agri.,
R/o Sawari, Tal.Nilanga,
District Latur

.. Respondents

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Mr. S. B. Solanke, Advocate for the applicants.
Ms. S. S. Joshi, APP for respondent No.1/State.

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

DATE : 26 NOVEMBER 2025

ORDER :

. Heard learned Advocate for the applicants. Learned APP waives notice for respondent No.1/State. There is no necessity to issue notice to respondent No.2.

2. Present application has been filed for quashing the FIR vide Crime No.208 of 2024 registered with Aurad Shahajani Police Station, Taluka Nilanga, District Latur, order dated 12.08.2024 passed by the learned Judicial Magistrate First Class, Nilanga as well as to quash the Sessions Case No.17 of 2024 pending before the learned Additional Sessions Judge, Nilanga for the offences punishable under Sections 312, 315, 452, 323, 504, 506, 34 of Indian Penal Code.

3. Learned Advocate for the applicants submits that the learned Magistrate, who took cognizance of the offence, has not considered that whether the material in the entire charge-sheet attracts the offences under which the cognizance is taken. The facts of the case do not show that when the incident took place on 30.05.2024, the applicants had the knowledge about the pregnancy of respondent No.2. It is on record that when the sonography was done and when the informant was examined,

then it is revealed that there is a possibility of miscarriage. It will not attract the offence. The order of taking cognizance is in the form of fill in the blanks and the stamp has been used and, therefore, the application deserves to be allowed.

4. Here, it is to be noted that when the cognizance has been taken by learned Magistrate on 12.08.2024, at that time, of course, though it is mandatory that the order should reflect the application of mind, yet in respect of offences under Sections 312 and 315, whether learned Judicial Magistrate First Class, Nilanga would have seen at that time and weighed the documents to arrive at the conclusion that the offence is not made out is itself a doubtful fact. Now, the case has been committed to the Court of Sessions i.e. Sessions Case No.17 of 2024. Under such circumstance, when the equally efficacious remedy is available under Section 228 of the Code of Criminal Procedure, we do not take this to be a fit case where the powers under Section 482 of the Code of Criminal Procedure can be exercised.

5. At this stage, the learned Advocate for the applicants, upon instructions, seeks withdrawal of the application with liberty to approach the learned Additional Sessions Judge, Nilanga, District

Latur for making an application involving Section 228 of the Code of Criminal Procedure.

6. In view of the said statement, the application stands disposed of as withdrawn with liberty as prayed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm