

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5088 OF 2024**

Balaji Alias Yogesh Raoji Rane

...Petitioner

V/s.

The State of Maharashtra & Anr.

...Respondents

Adv. Rishab Shah i/by Adv. Digvijay Rane, for the Petitioner.

Mr. S. R. Agarkar, APP for the Respondent No.1-State.

Mr. Lalasaheb R. Bandal, Adv. for the Respondent No.2.

Mr. Bajrang Desai, PSI, Samta Nagar Police Station, present.

**CORAM: BHARATI DANGRE, &
SHYAM C. CHANDAK, JJ.**

DATED : 22nd DECEMBER, 2025.

ORDER :- (PER SHYAM C. CHANDAK, J.)

1) Present Petition filed under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing and setting aside of the proceedings arising out of FIR bearing No.650 of 2018 registered with *Samata Nagar* Police Station, at Kandivali (East), Mumbai and the consequent charge-sheet bearing Case No.2354/PS/2018 pending before 17th Court of Metropolitan Magistrate, Borivali.

2) Heard Mr. Shah, the learned Counsel for the Petitioner and Mr. Agarkar, the learned APP for the Respondent No.1-State.

3) Rule. Rule is made returnable forthwith. Heard finally with consent of the parties.

4) The facts giving rise to this Petition are that, on 08/10/2018,

Respondent No.2 filed an oral complaint/report, therein, she narrated that since 2002 she has been serving as a clerk in Saraswati Vidyalay, Damunagar, Kandival East, which is being run by Harihar Shikshan Sanstha. Her husband Jaysing Ramchandra Kadam has been working in the same school as a Headmaster in the Secondary Section. Her husband had filed a representation/letter with the Education Department, wherein he requested to appoint an administrator, alleging that, the Board of Directors of the school is bogus. Respondent No.2 was not aware about the said letter. However, as her husband was against the school society, about 8 days earlier, she was called in the meeting of the society held in the school.

On 06/10/2018, at about 14.30 hours, as called by the Petitioner, Respondent No.2 and the school peon Smt. Kanchan Aware went his office. At that time, the Petitioner inquired with Respondent No.2 about the school accounts. She replied that the said work was in progress. Thereafter, Petitioner asked her as to whether she was aware about the activities of her husband Jaysing Kadam. Respondent No.2 claimed innocence. The Petitioner then read over the said representation filed by her husband against the school society. In view of that representation, a notice was served upon her husband to withdraw his representation. Her husband did not respond to the notice. Therefore, the Petitioner said her that it was unwise of her husband in raising dispute with the society. Further, the Petitioner threatened that since her husband did not listen and

took back his representation, now, she will have to face its consequences, and that, the society will remove him from the school. As a warning, the Petitioner impressed on her that whichever schools he had worked in, at least, seven persons have lost their job. Till date those people have been visiting him to pardon them. On hearing this, Respondent No.2 became sad. Thereafter, while leaving the office, Respondent No.2 told the Petitioner that he was like her brother and it was good that he apprised her the situation. But, before Respondent No.2 could come out of the office, the Petitioner told her to sit and he then came close to her. Further, he looked at her in an obscene manner, and told her that, "I can save your husband and your family from being ruined. You make up your mind, You can understand what I want to say." Thus, the Petitioner threatened Respondent No.2 and, while looking at her in an obscene manner, uttering indecent words, intentionally insulted her modesty.

As a result, the police registered the impugned FIR against the Petitioners for the alleged offences. On completion of investigation the police submitted the charge-sheet bearing Case No.2354/PS/2018.

5) Mr. Shah, the learned Counsel for the Petitioner submitted that the Petitioner was working as a consultant in the said society. In November 2017, suddenly, the husband of Respondent No.2 changed the timings of the secondary school. This unilateral decision of her husband invited dispute with the school management. Some more actions of her husband

invited disagreements between the Petitioner and her husband. It was followed by a complaint filed by the Respondent No.2's husband on 20/01/2018 against the Petitioner and Mr. Renake. On 25/10/2018, the Respondent No.2's husband filed a representation with the Education Department. In September 2018, the Petitioner was appointed as a Trustee in the society. Thereafter, some irregularities were noticed in respect of the accounts of the society. Therefore, a show cause notice was issued to her husband. In September 2018, it was learnt that the husband of Respondent No.2 has filed the said representation against the society. Therefore, on 06/10/2018, Respondent No.2 was called to give her husband an understanding to desist from indulging into anti-management activities, otherwise, a disciplinary action shall follow against him. However, there was no co-operation from Respondent No.2. Hence, Respondent No.2 filed the said complaint falsely implicating the Petitioner therein. Thus, said complaint is nothing but a result of personal vengeance by Respondent No.2. In the alternative, Mr. Shah submitted that even if the entire allegations in the complaint are accepted, it will not constitute the alleged offences. Therefore, the impugned FIR and the consequent charge-sheet may be quashed and set aside.

6) In contrast, the learned APP submitted that the act of the Petitioner of looking at Respondent No.2 in an obscene manner and indirectly asking her to give him sexual favour by threatening her as above,

was nothing but a clear offence of Sections 509 and 506 of IPC. She further submitted that considering the material evidence, whether the Petitioner has committed the alleged offences or not, is a question of trial. Such a question of fact cannot be decided in this Petition. As such, according to the learned APP, there is no substance in the Petition.

7) Mr Bandal, the learned Counsel for Respondent No.2 made similar submissions and empathetically contended that there is a strong case against the Petitioner of having committed the alleged offences. He, therefore, urged to dismiss the Petition.

8) We have considered these submissions. The documents produced on record by the Petitioner indicate that some dispute was going on between the society of the school on one hand and the husband of Respondent No.2 on the other. Said dispute was revolving around the representation filed by the husband of Respondent No.2. As such, there was a reason for Respondent No.2 to file some complaint against the Petitioner. However, said dispute is not sufficient to hold the impugned FIR as false.

9) Yet, the proceedings arising out of the subject FIR, according to us, cannot be continued. Because, to continue the said proceedings what is required is that, the narration in the FIR must constitute the alleged offences. In this context, we have looked into the provisions of Section 503 and 509 of IPC which read :

“503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.— A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

10) In so far as alleged offence of Section 506 of IPC is concerned, in the report, Respondent No.2 stated that since her husband did not listen to the school society and withdrawn his representation, therefore, the Petitioner threatened her that she will have to face its consequences. Further, that the society will remove her husband from the school. However, this statement was made in context of the dispute which was going on between the school society and husband of Respondent No.2. As such, the said threatening according to us cannot be an offence of Section 506 of the IPC.

11) As regards the alleged offence of Section 509 of the IPC, Respondent No.2 has stated that the Petitioner looked at her in obscene manner. Further, the Petitioner stated to Respondent No.2 that, “I can save your husband and your family from being ruined. You make up your mind, You can understand what I want to say”. However, these utterances also appears to have been made in the context of the representation filed by the husband of Respondent No.2 and the show cause notice issued to him in response to his conduct against the society. Meanwhile, the society had raised a question about the accounts of the society. It is Respondent No.2’s own case that the Petitioner was like her brother. Therefore, and considering the position that Petitioner was holding in the management of the school society at the relevant time, it is probable that the Petitioner might have tried to impress upon Respondent No.2 to prevail over her husband, so that, the dispute does not escalate to an undesired level. In other words, the said utterances were made only to convey that Respondent No.2 should think over the matter so that Petitioner can be of some help to her husband and her family. Moreover, the statement of witness Mrs. Kanchan Awere does not support the narration in the FIR. Therefore, the alleged act and the utterances cannot be accepted as sufficient to constitute the offence of intentionally insulting the modesty of Respondent No.2.

12) The conspectus of the above discussion is that, the alleged act of the Petitioner is lacking the necessary ingredients to constitute the offences of criminal intimidation and the act of intentionally insulting the modesty of a woman. As held in the case of ***State of Haryana and Others vs. Bhajan Lal and Others***¹ where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, such FIR may be quashed. This enunciation is clearly applicable to the facts of the case in hand. In the wake of above, we are of the view that, continuation of the proceedings arising out of the impugned FIR would be an abuse of process of law. As a result, we are inclined to allow the Petition and pass the following order:-

:: ORDER ::

- (i) The proceedings arising out of the impugned FIR bearing No.650 of 2018 registered with Samata Nagar Police Station at Kandivali (East), Mumbai and the consequent charge-sheet bearing Case No.2354/PS/2018 pending before the 17th Court of Metropolitan Magistrate, Borivali, are quashed and set-aside. No order as to costs.
- (ii) Petition is made absolute in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)