



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

CRIMINAL APPLICATION (APL) NO. 141 OF 2021

1. **Shrikrushna s/o Pundalik Shelke**
Aged 42 Yrs.,
Occupation : Agriculturist
R/o. Kumbhi Taq, Mangrulpir,
District Washim,
2. **Anita w/o Shrikrushna Shelke,**
Aged about 34 years
Occupation : Agriculturist
R/o. Kumbhi Taq, Mangrulpir,
District Washim
3. **Ganesh Gyanba Shinde,**
Aged about 37 years,
Occupation : Doctor,
R/o Washim, Tq and
District Washim

...APPLICANT

// V E R S U S //

1. **State of Maharashtra,**
Through Police Station Officer,
Police Station Asegaon, Tq.
Washim District Washim
2. **Parvati Pundlik Shelke**
Aged 30 years,
Occupation -Housewife,
R/o Kumbhi, Tah. Mangrulpir
District Washim, Maharashtra

NON-APPLICANTS

Mr. S.S. Dhengle, Advocate for applicants.
Mr Nikhil Joshi, APP for non-applicant No. 1/State.
Mr. J.B. Gandhi, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE AND
NANDESH S. DESHPANDE, JJ.
CLOSED FOR JUDGMENT :- 11.09.2025
PRONOUNCEMENT OF JUDGMENT :- 20.09.2025

O R A L J U D G M E N T : (PER : NANDESH S. DESHPANDE J.)

1. Heard.
2. **Admit.** Heard finally by the consent of learned counsel for the parties.
3. The applicants have filed the present application seeking quashing and setting aside of First Information Report No.220/2016 registered on 14.10.2016 for offences punishable under Sections 294, 427 and 506 read with Section 34 of the Indian Penal Code (for short, 'I.P.C.') registered with Police Station Asegaon and charge sheet No.171/2016 dated 20.11.2016 and proceedings bearing Regular Criminal Case No.183/2016.
4. As can be seen from the First Information, Report non-applicant No.2 lodged a complaint with non-applicant No.1 on 14.10.2016 that on even date at about 10 a.m. the accused persons/applicants herein came to her house and started shouting

in a high pitch. They also hurled stones on her house, which caused loss to the door of her house. It was on these facts that the First Information Report in question was lodged. The present application is filed challenging said First Information Report and consequent charge sheet stated supra.

5. We have heard Mr. S.S. Dhengale, learned counsel for the applicants as also Mr. Nikhil Joshi, learned APP for non-applicant No.1 and Mr. J.B. Gandhi, learned counsel for non-applicant No.2.

6. Learned counsel for the applicants submits that no offence much less as mentioned in the Section, is made out. He states that even perusal of the averments in the First Information Report if they are taken on their face value do not constitute an offence and therefore, first information report and consequent charge-sheet are liable to be quashed.

7. Per contra, Mr. Nikhil Joshi, learned APP strongly refused the submissions and stated that the averments in the first information report and accompanying statements along with

charge-sheet are sufficient enough to make out a triable case against the applicants.

8. Learned counsel for non-applicant No.2 also supports learned APP for the State.

9. In the backdrop of these facts, we have perused the charge-sheet and submissions made by learned counsel for the respective parties. The offence complained of is under Section 294 of the IPC, which speaks about obscene acts and songs. Perusal of the first information report and charge-sheet reveal that the only allegation against the applicants is that they started shouting in loud voice and hurled stones over the house of the first informant. There is no whisper about the applicants doing any obscene act in any public place, or singing recites or utters any obscene song, ballad or words, in or near any public place. Thus, the ingredients of Section 94 are not made out.

10. As far as Section 427 is concerned, it speaks about mischief causing damage to the amount of fifty rupees or upwards. Even an offence under Section 506 as defined under Section 503

of Criminal Intimidation is not made out. Since there is no threatening to another with any injury to his person, reputation or property. It can thus see that none of the offence as stated in the application is made out.

11. In the backdrop of these facts we have perused the material placed before us which include statement of the various witnesses as also other material. As can be seen from the said material Mr. Pundlik Shelke had wife namely Panchafula and son name Shrikrushna. The complainant in the First Information Report is Anita i.e. wife of Shrikrushna while the accused is second wife of Pundlik. It is also admitted position on record that first wife of Pundlik namely Panchfula Shelke expired on 20.08.2011 after which said Pundlik Shelke performed second marriage with Parvati. It is this second marriage which seems to be the bone of contentions between parties. It can thus, safely be said that dispute is with respect to the share of the property and parties have been litigating in various forums. It can also be seen from the record that non-applicant No.2 as well as her husband namely

Shrikrushna had filed various police complaints against the applicant as also Pundlik Shelke some of which are as under:-

(a) FIR No.3012/2014 registered with Police Station Asegaon for offence punishable under Sections 294 and 506 of the I.P.C. in which after full fledged trial, Pundlik Shelke was acquitted by the trial Court in RCC No.286/2014

(b) First Information Report No.172/2015 registered with Police Station Mangrulpur for offence punishable under Sections 354, 294, 323 and 506 read with 34 of the IPC bearing RCC No.205/2016 which is pending.

(c) *First Information Report No.218/2016 dated 12.10.2016 which was subject matter of challenge before this Court in APL No.237/2017 in which said First Information Report and charge-sheet was set aside.*

12. The situation would directly cover by the parameters laid down by Hon'ble Apex Court in the celebrated judgment of **State of Haryana and others vs. Bhajanlal and others** reported in **1992 Supp(1) Supreme Court Cases 335** where it is stated as under:-

“(1) Where the allegations made in the First Information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.”

13. We have therefore, no hesitation to hold that continuation of criminal proceedings against applicants would amount to an abuse of process of Court. We therefore, think it to be a fit case for exercising our inherent powers under Section 482 of Code of Criminal Procedure.

Hence, we proceed to pass following order:-

ORDER

- (i) The Criminal Application is allowed.
- (ii) We quashed and set aside First Information Report No.220/2016 registered on 14.10.2016 for offences punishable under Sections 294, 427 and 506 read with Section 34 of the I.P.C. registered with Police Station Asegaon District Washim and charge

sheet No.171/2016 dated 20.11.2016 and proceeding bearing Regular Criminal Case No.183/2016 against the applicants.

14. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

[NANDESH S. DESHPANDE, J] [URMILA JOSHI PHALKE, J.]