



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

CRIMINAL APPLICATION (APL) NO.70 OF 2017

- APPLICANT(S) : 1) Firoz Khan S/o. Karam Khan,
Aged 50 Years, Occ. Business, R/o. Behind
Shahi Masjid, Bada Tajabad, Nagpur.
- 2) Sayada Begum W/o. Firoz Khan,
Aged 46 Years, Occ. Household, R/o.
Behind Shahi Masjid, Bada Tajabad,
Nagpur.
- 3) Zubair Khan S/o. Firoz Khan,
Aged 26 Years, Occ. Business, R/o. Behind
Shahi Masjid, Bada Tajabad, Nagpur.
- Deleted as per Court's order
dt.12.09.2023 4) ~~Shahrukh Khan S/o Firoz Khan,~~
~~Aged 21 Years, Occ. Business, R/o. Behind~~
~~Shahi Masjid, Bada Tajabad, Nagpur.~~
- 5) Afzal Khan S/o. Amir Khan,
Aged 47 Years, Occ. Business, R/o. Behind
Shahi Masjid, Bada Tajabad, Nagpur.
- 6) Payaru Khan S/o. Abdul Hakk,
Aged 51 Years, Occ. Auto Driver, R/o.
Near M.M. Taj High School, Sindhiban,
Bidipeth, Bada Tajabad, Nagpur.

..VERSUS..

- NON-APPLICANT(S) : 1) State of Maharashtra, Through P.S.O. of
Police Station Sakardara, Nagpur.
- 2) Syed Rubina W/o. Syed Yusuf Iqbal Taji,
Aged about years, Occ. Nil, R/o. Yusuf
Baba Manzil, Behind Shahi Masjid, Bada
Tajabad, Nagpur.

- 3) Shri. Sharad Dalsing Shipne,
Police Sub-Inspector (PSI), Sakardara
Police Station, Sakardara, Nagpur.
- 4) Shri. K. B. Thakre,
Police Inspector, Sakkardara Police Station,
Sakkardara, Nagpur.

Mr. Fidos Mirza, Senior Advocate a/b. Mr. S.O. Ahmed, Advocate for Applicant/s.
Ms Shamsi Haidar, Addl.PP for the non-applicant Nos.1, 3 and 4/State
Mr. Y.J. Sheikh, Advocate for the non-applicant No.2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.

DATE : 5th May, 2025

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.
2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.
3. This is an application filed under Section 482 of the CrPC for quashing and setting aside the charge-sheet bearing No.87 of 2023 dated 29.06.2023, filed in Summary Criminal Case No.15043 of 2023, arising out of the First Information Report (FIR) No.280 of 2016 dated 22.11.2016, registered with Police Station Sakardara, Nagpur, for the offences punishable under Sections 294, 323, 143, 147 and 149 of the IPC.

4. Admittedly, the alleged incident is dated 13.10.2016 and the report came to be lodged on 03.11.2016 after about one month and ten days.

5. After the investigation, the charge-sheet came to be filed, however, there is no evidence on record to support the case of the prosecution under Section 323 of the IPC.

6. While examining the argument advanced by the learned Senior Advocate for the applicants that this is a counter blast to the complaint made by the applicants on the same day of the incident i.e. on 13.06.2016, it is revealed that despite the complaint made by the applicants on the same day, the cognizance was not taken and therefore, the complaint was made to the higher authority. Thereupon, the offence came to be registered on 03.11.2016. However, again on finding that the offence had not been registered under the relevant Sections of the IPC, further complaint was made and therefore, necessary action was added by the police.

7. Thus, it is evident that though the applicants lodged the criminal report with the police, but on the same day of

incident i.e. on 13.10.2016, after suffering from fracture to his finger, no complaint was lodged by the non-applicant No.2 for a long period of more than one month. Thus, we find substance in the submission of the learned Senior Advocate that this is a counter blast and to implicate the applicants, a false complaint came to be lodged by the non-applicant No.2.

8. The learned APP and the learned counsel for the non-applicant No.2 strongly opposed the present application and try to impress upon the fact that the explanation has been offered by the non-applicant No.2 for such delay. The explanation offered by the non-applicant No.2 is not probable for the reason that he has stated that both the parties had decided not to lodge any complaint against each other and therefore, he did not lodge any complaint on the same day. This explanation seems to be improbable for the reason that the record shows otherwise.

9. As we have observed that the applicants made a complaint to the police station on the same day and it was lodged immediately, as the incident took place in the premises

of the police station itself. So, without delay of minutes also, the complaint came to be filed by the present applicants and therefore, the explanation offered by the non-applicant No.2 for not lodging the report against the present applicants, cannot be accepted.

10. In the above referred circumstances, having held that the complaint is a counter blast, made with an oblique motive, the same cannot be allowed to continue, as it would amount to abuse of process of law. Therefore, we are of the considered view that this is a fit case for quashing and setting aside the charge-sheet against the applicants. Accordingly, we pass the following order:

- (i) The application is **allowed**.
- (ii) The charge-sheet bearing No.87 of 2023 dated 29.06.2023, filed in Summary Criminal Case No.15043 of 2023, arising out of the First Information Report (FIR) No.280 of 2016 dated 22.11.2016, registered with Police Station Sakardara, Nagpur, for the offences punishable under

Sections 294, 323, 143, 147 and 149 of the IPC, is hereby quashed and set aside, against the present applicants.

Rule accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)