



Judgment

508 apl116.19

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

CRIMINAL APPLICATION (APL) NO.116 OF 2019

1. Sau.Archana Pradip Ghevande,
age about 44 years, occupation Advocate.

2. Pradip Bhaskar Ghevande,
age about 47 years, occupation Advocate.

Both the above are
r/o Adarsha Colony,
Deulgaon Raja,
taluka Deulgaon Raja,
district Buldana.

3. Vishal Suresh Vyawahare,
age about 35 years, occupation: labour,
r/o Sindhakhed Raja,
taluka Sindhekhed-Raja,
district Buldana.

..... **Applicants.**

:: VERSUS ::

1. State of Maharashtra,
through Police Station Officer,
P.S.Deulgaon, District Buldana.

2. Varsha Govind Kankal,
aged about 39 years,
occupation Advocate,
r/o Fukatpura, Sindkhed-Raja,
taluka Sindkhed-Raja,

.....2/-

district Buldana.

..... **Non-applicants.**

Shri S.V.Sirpurkar, Counsel for the Applicants.

Shri N.H.Joshi, Addl.PP for NA No.1/State.

Shri M.V.Rai, Counsel for NA No.2.

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 26/11/2025

PRONOUNCED ON : 05/12/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. The present application is preferred by the applicants for quashing of the FIR in connection with Crime No.180/2017 registered under Sections 354-A, 504, 506, and 509, read with 34 of the IPC and the subsequent proceeding bearing chargesheet No.232/2017.

2. The crime is registered on the basis of a report lodged by Varsha Govind Kankal, who is Advocate by profession. As per her report, when, on 27.6.2017, at about 4:00 pm, she had been to the court premises at Deulgaon-Raja, applicant No.2 abused her and by means

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of gesture outraged her modesty. On the basis of the said report, the police registered the crime against the applicants.

3. Heard learned counsel Shri S.V.Sirpurkar for the applicants, learned Additional Public Prosecutor Shri N.H.Joshi for the State, and learned counsel Shri M.V.Rai for the non-applicant No.2.

4. Learned counsel for the applicants submitted that due to the previous dispute between the parties and due to professional competition, the FIR came to be lodged by them against each other. As far as offence under Section 354-A of the IPC is concerned, recital of the FIR nowhere discloses exact act of the applicant No.1 as to attract offence under Section 354-A of the IPC showing that the applicant No.2 made any gestures which outraged the modesty of the informant. The informant has, initially, also lodged report against applicant No.2 alleging forceful

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sexual assault, which is pending. As the applicant No.1 has lodged another complaint alleging the informant has abused her in a filthy language, to give counterblast to the said report, this false report is filed.

Learned counsel for the applicants invited our attention to statements of witnesses and submitted that none of witnesses stated the exact words or gestures of applicant No.2 to outrage modesty of the informant. Thus, no prima facie case is made out and, therefore, the application deserves to be allowed.

5. *Per contra*, learned Additional Public Prosecutor for the State and learned counsel for the informant strongly opposed the application and submitted that considering there is a previous dispute between the informant and the applicants and the incident is witnessed by other witnesses also, prima facie case is made out

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against the applicants and, therefore, the application deserves to be rejected.

6. Having heard learned counsel appearing for the parties and perused the investigation papers, it reveals that the allegation is that the applicant No.2 has outraged the modesty of the informant by doing obscene gestures. Admittedly, none of the witnesses has stated about exact obscene gestures which would attract the outraging of the modesty.

7. For ready reference, Section 354-A of the IPC, is reproduced hereunder:

“354-A Sexual harassment and punishment for sexual harassment.

(1) A man committing any of the following acts-

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(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both”.

8. A person who physically contacts and advances involving unwelcome and explicit sexual overtures is said to have committed offence under Section 354-A of the IPC.

9. The statements of the informant and the witnesses nowhere disclose that any criminal force is used on the informant or what were exact gestures by which there were sexual overtures on the part of the applicant No.2.

10. Thus, no prima facie case is made out against the applicants.

11. The applicants are also charged for the offence under Section 509 of the IPC, which talks about 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

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any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, are said to have committed the offence under Section 509 of the IPC. However, the said offence is not attracted against the applicants as exact gestures are not narrated either by the informant or any of the witnesses.

12. The allegations levelled, if tested by considering the definition of “criminal intimidation” given under Section 503 of the IPC, which states that 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.

13. Here, there is no such allegation that any criminal force or injury attempt to cause any injury was there with intent to cause alarm to that person and, therefore, no *prima facie* case is made out against the applicants.

14. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read as under:

“(a) 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;

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(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) 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;

(d) 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;

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(e) 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;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

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15. In view of the above, the application deserves to be allowed, as per order below:

ORDER

(1) The Criminal Application is **allowed**.

(2) The FIR in connection with Crime No.180/2017 registered under Sections 354-A, 504, 506, and 509, read with 34 of the IPC and the subsequent proceeding bearing chargesheet No.232/2017 are hereby quashed and set aside to the extent of the present applicants.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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