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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.364 OF 2025

1. Pravin s/o Sudhakar Jade,
Aged 50 Years, Occupation : Advocate,
R/o Vakil Line, Tilak Chowk,
Paratwada, Taluka Achalpur,
District Amravati.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Paratwada, Taluka Achalpur,
District Amravati.
2. Priyadarshani s/o Namdevrao,
Zod, Aged 37 Years,
Occupation : Assistant Teacher,
R/o Saraswati Nagar,
Paratwada, Taluka Achalpur,
District Amravati.

.... NON-APPLICANTS.

Mr. C. A. Babrekar, Counsel for the applicant.
Ms. Sneha Dhote, APP for non-applicant No.1/State.
Mr. C. S. Dongare, Counsel for non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 03/10/2025**

ORAL JUDGMENT : [Per : URMILA JOSHI-PHALKE, J.]

1. **Admit.**
2. Heard finally with the consent of the learned Counsel
for the parties.

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3. The present application is filed by the applicant for quashing of the First Information Report in connection with Crime No.132/2024 dated 25.02.2024 registered with Police Station Paratwada, District Amravati for the offence punishable under Sections 294 and 506 of the Indian Penal Code (for short 'IPC) and consequent proceeding arising out of the same bearing SCC 490/2024 pending before the Judicial Magistrate First Class, Achalpur, District Amravati.

4. Heard learned Counsel for the applicant, who submitted that crime is registered against the present applicant on the basis of a report lodged by the non-applicant No.2 on an allegation that there was a Court proceeding began between the complainant and her husband on 25.02.2024 and the applicant is the lawyer of the complainant's husband. On 12.02.2024, the complainant along with her father had attended the Court proceedings and filed an application for maintenance to her Counsel, while sitting in the Court premises, the applicant came there and threatened them to face the dire consequences and also uttered filthy words against her and her father. Due to the fear, the complainant lodged the complaint few days later. It is further alleged that the complainant was abused by the applicant in filthy words and threatened with dire consequences and therefore, the crime is registered against the present applicant.

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He submitted that as far as the application of Section 294 is concerned, which is not applicable as mere abuses are not sufficient to infer that the offence under Section 294 i.e. obscene act and songs are made out. He invited our attention towards the Section 294 which deals with the obscene acts and songs and reads as under:

"294. Obscene acts and songs.—Whoever, to the annoyance of others –

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

5. He submitted that none of the ingredients to attract either Sections 294 or 506 are made out and therefore, the application deserves to be allowed.

6. Learned APP strongly opposed for the same and submitted that the informant was threatened by the present applicant to face the dire consequences, which is sufficient to attract Section 506 of IPC. She further invited our attention towards the recitals of the FIR and submitted the abuses which are uttered by the present applicant sufficiently shows that he has used the obscene language. In view of that, the application deserves to be rejected.

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7. Learned Counsel for the complainant/non-applicant No.2 also endorsed the same contention and submitted that the recitals of the FIR itself sufficient to attract both sections and therefore, the application deserves to be rejected as *prima facie* case is made out.

8. After hearing both sides and on perusal of the recitals of the FIR, wherein the allegations are levelled of abuses when the proceeding was going on before the Court. On perusal of the recitals of the FIR, it reveals that the words used covers under abuses, but as far as obscenity is concerned, the Hon'ble Apex Court in the case of **N.S. Madhanagopal and another vs. K. Lalitha** reported in **(2022) 17 SCC 818** wherein laid down the test of obscenity under Section 294(b) of the IPC observed that "The test of obscenity is this, "whether the tendency of the matter charged as obscenity is to deprive and corrupt those whose minds are open to such immoral influences." "This test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in **Ranjit D. Udeshi Vs State of Maharashtra [MANU/SC/0080/1964]** wherein the test of "obscenity" is the 'substantial tendency to corrupt by arousing lustful desires'. It impure thoughts, I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not

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think the words are "obscene" and the utterance would constitute an offence punishable under Section 294(b) Indian Penal Code."

9. This aspect is further considered by the Hon'ble Apex Court in the case of **Om Parkash Ambadkar Vs. The State Maharashtra and Ors.** reported in **MANU/SC/0134/2025** and observed that in so far as Section 294 of the IPC is concerned, this Court in **N. S. Madhanagopal and Another V. K. Lalitha** referred supra has explained the true purport and scope of Section 294. It is further observed that it has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the Accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) of the Indian Penal Code. It is further observed that "mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and

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in the absence of legal evidence to show that the words uttered by the Appellant-accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) Indian Penal Code are made out.” Here also in the present case, except the abusive language, there is no allegation at the most as observed by the Hon’ble Apex Court it could be a defamatory words by themselves and that is not sufficient to attract the offence under Section 294 of IPC.

10. As far as the Section 506 is concerned, it is alleged that the applicant has threatened the informant and thereby committed an offence of criminal intimidation. Section 503 of the IPC defines the definition of criminal intimidation, which reads as “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.”

11. Section 506 deals with the punishment for criminal intimidation. Thus, the ingredients which are required for to attract Section 503 are:

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- (1) Threatening a person with any injury;
- (i) to his person, reputation or property; or
- (ii) to the person, or reputation of any one in whom that person is interested.

To attracts Section 506 sub section (2) The threat must be with intent; (i) to cause alarm to that person; or (ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

12. The Hon'ble Apex Court also considered the Section 506 of IPC in the said judgment and it is observed that Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section.

13. In view of the above said observation, in the present case also at the most, it can be said that the nature of the allegation levelled in the FIR a *prima facie* case to constitute the offence punishable under Section 506 of the Indian Penal Code has not been made out as well as offence under Section 294 is

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also not made out and therefore, the application deserves to be allowed. Accordingly, we proceed to pass following order:

ORDER

- (i) The application is **allowed**.
- (ii) The First Information Report in connection with Crime No.132/2024 dated 25.02.2024 registered with Police Station Paratwada, District Amravati for the offence punishable under Sections 294 and 506 of the Indian Penal Code and consequent proceeding arising out of the same bearing SCC 490/2024 pending before the Judicial Magistrate First Class, Achalpur, District Amravati, are hereby quashed and set aside to the extent of present applicant.

The application is disposed of in the above said terms.

(NANDESH S. DESHPANDE, J) (URMILA JOSHI-PHALKE, J)