



Judgment

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

CRIMINAL APPLICATION (APL) NO.790 OF 2022

Amol s/o Dayaram Jadhav,
aged about 45 years, occupation service,
r/o Nirmal Apartment,
Mangalmurti Nagar, Part-II,
Wadgaon, Yavatmal, taluka Yavatmal,
district Yavatmal. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra,
through its SDPO/Police
Station Officer, Police Station,
Awadhutwadi, Yavatmal, taluka and
district Yavatmal.

2. Rushali Sandip Gaikwad,
aged about 31 years, occupation
household, r/o Mangalmurti
Nagar, Nirmal Apartment, Arni
Road, Yavatmal, taluka and district
Yavatmal. **Non-applicants.**

**Shri V.Gokhale, Adv. h/f Shri R.L.Shinde with Mrs.Sapna
Jadhav, Advocate for the Applicant.
Mrs.Shamsi Haider, Addl.PP for NA No.1/State.
Mrs.Archana Murrey, Counsel Appointed for NA No.2.**

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

CLOSED ON : 05/12/2025

PRONOUNCED ON : 10/12/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. Heard learned counsel Shri V.Gokhale for the applicant, learned Additional Public Prosecutor Mrs.Shamsi Haider for non-applicant No.2/State, and learned counsel Mrs.Archana Murrey appointed for non-applicant No.2 (the complainant). **Admit.** Heard finally by consent of learned counsel for the parties.

2. The present application is preferred by the applicant under Section 482 of the CrPC for quashing of FIR in connection with Crime No.296/2021 registered under Sections 294, 341 354, and 354-A of the IPC and under Section 3(1)(w)(i) of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the SC ST Act) and consequent proceeding arising out of the same bearing Special Case No.113/2021 pending

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before learned 4th District Judge-2 and Additional Sessions Judge, Yavatmal.

3. Brief facts of the prosecution case emerge for the police papers, are as under:

The FIR is lodged by the complainant alleging that she came from market to her residence on 25.3.2021. At about 4:30 pm, the applicant stopped her vehicle by using both of his hands and abused in a filthy language. Thereafter, at the parking, he, with an ill-intention, hugged her and thereby outraged her modesty and abused in a filthy language.

4. On the basis of the said report, the police registered the crime against the applicant. During investigation, the investigating officer has recorded various statements of witnesses and after completion of

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the investigation, submitted chargesheet against the applicant.

5. Learned counsel for the applicant submitted that the complainant is suffering from mental illness. Her husband has made various complaints about her. The applicant has also lodged complaints against her regarding her behaviour. Not only statements of witnesses but also statement of her husband shows that it was the complainant who is in habit of raising quarrels with various persons. The statements of nearby residents also disclose that there was only altercation of words between them and no such incident as to outraging of modesty has taken place. Thus, on the basis of false and baseless allegations, the applicant is arrayed as accused in the alleged crime. No *prima facie* case is made out against the applicant and, therefore, the application deserves to be allowed.

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6. *Per contra*, learned Additional Public Prosecutor for the State submitted that considering the allegations levelled against the applicant, who has used criminal force against the complainant who belongs to the Scheduled Castes Community and the applicant is not member of the Scheduled Caste Community and, therefore, the offence under Section 3(1)(w)(i) of the SC ST Act is also attracted. The statements of witnesses show that involvement of the applicant in the alleged offence. In view of that, the application deserves to be rejected.

7. On hearing both the sides and perusing the entire investigation papers, it reveals that the complainant and the applicant are residing in the same locality i.e. "Nirmal Apartment". As per the allegations of the complainant, the applicant is having ill-intention about her and due to the said ill-intention, on 25.3.2021, the

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applicant abused and outraged her modesty by giving hug to her.

8. It is apparent that on 27.3.2021, the wife of the applicant has lodged a report against the complainant alleging that she has abused her as well as her husband. She has also confined her two daughters in the flat and, therefore, they have informed builder of the building about the same. They have also informed the husband of the complainant. As they have informed the builder and husband of the informant, she abused them and also threatened them that she will implicate them in an atrocity case.

Another complaint is also lodged by one Rita Kale from the same locality against the complainant with the similar allegations. During investigation, statement of the husband of the complainant is also recorded, who has also substantiated contention that it was the complainant

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who is in habit of raising quarrels with neighbours. Despite giving various understandings, she has not paid any heed towards it and adjacent flat owners also disclosed to him that no such incident has occurred, but it was the complainant, who is his wife, is wrong.

9. The statements of Rekha Waghmare and Rita Kale disclose that no such incident has occurred.

10. Thus, except bare statement of the complainant, none of other witnesses substantiated the said allegations.

11. The documents on record show that various complaints are filed against the complainant regarding her behaviour with neighbours.

12. It is alleged that the applicant has abused the complainant in a filthy language.

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13. Admittedly, abuses used by the applicant, which are stated in the FIR by the complainant, are as under:

“----- गैरअर्जदार नामे अमोल दयाराम जाधव वय अं.४५ वर्षे, जात बंजारी यांनी माझा दोन्ही हाताने रस्ता अडवून मला भोसडीचे रांड अशी अश्लील शिविगाळ करून फलॅट चे खाली वाहन पार्कींग मध्ये मला वाईट उद्देशाने अलिंगण दिले.....”

14. Even accepting the said allegations as it is, it is well settled that mere abuses are not sufficient to attract Section 294 of the IPC.

15. Section 294 of the IPC talks about obscene acts and songs. The said Section is reproduced as under for reference:

“**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”.

16. The informant has further alleged that she is wrongly restrained by the applicant. However, this allegation is also not substantiated by statements of other witnesses.

17. Section 341 of the IPC, states that whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

18. Perusal of various statements of neighbours, it nowhere states that the applicant has either restrained the complainant from one place to another or wrongfully restrained her at the parking place and, therefore, *prima facie* material is not available on record to attract Section 341 of the IPC is concerned.

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19. As far as offence under Section 354 and 354-A of the IPC is concerned, admittedly statements of witnesses show that no such incident has occurred.

20. As per the allegation of the complainant, though the applicant was knowing that she belongs to the Scheduled Caste Community, he has outraged her modesty. The said allegation is absent in the FIR. She nowhere stated that the applicant was knowing that she belongs to the Scheduled Caste Community and despite the said knowledge, he has outraged her modesty. In fact, the allegation of outraging of modesty itself appears to be false and baseless, which reveals from the investigation papers. Even the husband of the informant has not supported the said contention.

21. As observed by the Hon'ble Apex Court in Criminal Appeal No.2622/2024 (**Shajan Skaria vs. The State of Kerala and anr**) decided on 23.8.2024, "duty to

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determine prima facie existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a prima facie finding on the case has the effect of precluding the accused person from seeking

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anticipatory bail, which is an important concomitant of personal liberty of the individual”.

It has been further held that, “all insults or intimidation to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe”.

22. By referring various decisions by the Hon’ble Apex Court it is held that, “mere knowledge of the victim that the victim is a member of the Scheduled Caste or Scheduled Tribe, is not sufficient to attract Section 3(1)(r) of Act of 1989. Every insult or intimidation would not amount to an offence unless, such insult or intimidation is targeted at the victim because he is a member of a particular Scheduled Caste or Scheduled Tribe.

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23. In the case of **Hitesh Verma vs. State of Uttarakhand, reported in (2020)10 SCC 710** it is held that, “offence under Section 3(1)(r) of the SC ST Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste.

24. Thus, considering various decisions of the Hon’ble Apex Court and by applying the same to the present case in hand, admittedly, allegations levelled by the complainant itself are not supported by any of witnesses though the alleged incident has taken place in the premises of the building. The statement of one Roshan Gadhwe also shows that it was the complainant who approached him and was informing him that she wants to lodge a complaint. Her husband also came in

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his office and he has also given understanding to her, but she was not ready to hear.

25. Thus, various statements show that it was the complainant, who raises quarrels with other members of the society and various complaints are filed against her. As far as the incident alleged is concerned, no *prima facie* case is made out against the applicant considering various statements recorded during the investigation.

26. The law relating to quashing of FIRs has been 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:

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(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;

(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

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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;

(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;

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(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”.

27. If the facts of the present case are considered, admittedly, it would cover under Clause-1 of the said principles and continuation of the proceeding against

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the applicant, in the light of the above facts and circumstances, would definitely abuse of process of law.

28. In this view of the matter, the application deserves to be allowed, as per order below:

ORDER

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

(2) FIR in connection with Crime No.296/2021 registered under Sections 294, 341 354, and 354-A of the IPC and under Section 3(1)(w)(i) of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the SC ST Act) and consequent proceeding arising out of the same bearing Special Case No.113/2021 pending before learned 4th District Judge-2 and Additional Sessions Judge, Yavatmal are hereby quashed and set aside to the extent of applicant Amol s/o Dayaram Jadhav.

(3) Fees of learned counsel Mrs.Archana Murrey appointed for the complainant are quantified and the same be paid to her as per rules.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!