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

CRIMINAL APPLICATION (APL) NO.599 OF 2022

1. Umakant Vishnu Awagan,
Aged about 57 Years,
Occupation : Service,
Resident of 33,
Tirupati Nagar, Darwha Road,
Lohara,
District Yavatmal 445 001.
2. Ranjit Bhagwantrao Choudhary,
Aged about 45 Years,
Occupation : Service,
Resident of Vasantrya Naik
Government Medical College and
Hospital Quarters, Yavatmal,
Tahsil and District Yavatmal.

.... APPLICANTS

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Yavatmal City, District Yavatmal.
2. Ashwini Sopanrao Nagrale,
Aged about 36 Years,
Occupation : Service,
Resident of Yerangaon,
Post Shiragaon Bazaar,
Hinganghat, District Wardha,
presently at Vasantrya Naik
Medical College Quarters,
Yavatmal - 445001.

(Complainant)

.... NON-APPLICANTS

Mr. Rohan Deo, Advocate for the applicants.
Mr. M. J. Khan, APP for non-applicant No.1/State.
Mr. Paresh Thakur, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 09.12.2025
PRONOUNCED ON : 16.12.2025

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JUDGMENT : (PER : URMILA JOSHI-PHALKE, J.)

1. **Admit.**

2. Heard finally with the consent of the learned Counsel of the parties.

3. By this application, the applicants are seeking quashing of the First Information Report (for short 'FIR') in connection with Crime No.109/2022 registered with Police Station Yavatmal City, District Yavatmal for the offence punishable under Sections 354, 354-A, 354-D read with Section 34 of the Indian Penal Code and under Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), Act 1989 (for short 'the Act of 1989').

4. The applicant No.1 is in service of Vasant Rao Naik Government Medical College and Hospital, Yavatmal ("VNGMC"). He joined service as Assistant Laboratory Technician and since 2010, he is serving as a Laboratory Technician. The applicant No.2 is also serving as a Laboratory Technician. The crime is registered at the behest of the non-applicant No.2. She is a colleague of the present applicants and also serving as a Laboratory Assistant in the VNGMC since 11.11.2016. As per her allegations, on 26.11.2016 at around 2.00 p.m, in the afternoon, the applicant No.1 sexually harassed her by outraging her modesty while conducting an ECG. As per the allegation, the

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applicant No.1 held her shoulders inappropriately and by physically touching her stomach against her consent and passed a sexually coloured remark. Whereas the applicant No.2 as per the allegation on 16.02.2022, at around 8.30 p.m., followed her when she was returning home from work and continued to stalk her by making sexually coloured remarks. She was also threatened that if she disclosed the incident, she has to face the dire consequences. On the basis of the said report, police have registered the crime against the present applicants under Sections 354, 354-A and 354-D read with Section 34 of IPC and under Sections 3(1)(xi) of the Act of 1989.

5. Heard learned counsel Mr. Rohan Dev for the applicants, who submitted that the entire allegations are groundless and baseless only to avoid the departmental action against her, as it was noted that her conduct is against the rule of Maharashtra Civil Services Rules (MCSR). The superiors have noted her misconduct and action was proposed against her therefore, to avoid the said action, she has filed this baseless complaint against the present applicants. He submitted that even the reply filed by the State shows that the Committee was appointed to enquire with the allegations levelled by her. It revealed to the Committee that she has lost her mental balance and she is in need of detailed psychiatric evaluation. It was

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further observed by the Committee that the allegations levelled by her against the applicants has no substance and it is also not supported by any of the hospital employees. In view of that, no *prima facie* case is made out against the present applicants and therefore, the application deserves to be allowed. In support his contention, he placed reliance on **Hasmukhlal D Vora and another vs State Of Tamil Nadu** reported in **(2022) 15 SCC 164** and **State of Odisha Vs. Pratima Mohanty and others** reported in **(2022) 16 SCC 703**.

6. Per contra, learned APP strongly opposed the said application, but he fairly submitted that during the enquiry by the three members Committee, the Committee found there is no substance in the allegations, and therefore, the appropriate orders shall be passed.

7. Learned counsel for the non-applicant No.2-complainant strongly opposed the same and submitted that considering the gravity of the allegations, the application deserves to be rejected.

8. On hearing both sides and on perusal of the entire documents filed along with the application, it reveals that the duty chart which is produced on record by the learned counsel for the applicants dated 26.11.2016 i.e. on the day of incident

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shows that the victim and the applicants never on duty together. The informant was on duty during the morning shift, whereas the applicant No.1 on duty during the night off. As per the allegations of the victim, the alleged incident of sexually harassing her has taken place on 26.11.2016 at about 2.00 p.m. in the ECG room. Whereas the duty chart shows that the applicant No.1 was not on duty at the relevant time, therefore, his presence in the hospital during the day hours and that is also on duty in ECG room appears to be doubtful. The said duty chart is obtained by the present applicants under the Right to Information Act. As far as the applicant No.2 is concerned, who is handicapped and he has received the notice from the Dean Vasantrao Naik Government College and Hospital, as she was absent from the duty from 14.06.2021 to 21.12.2021 without sanctioning the leave. The communication dated 11.04.2022 shows that till 11.04.2022, he was not on duty. The alleged incident against him, as per the informant dated 16.02.2022, when she was proceeding from her duty towards home, the applicant No.2 alleged to have stopped her. Even accepting the contention that the alleged incident has taken place outside the hospital, however, the said allegation appears to be baseless in view of the enquiry conducted by the three members Committee after receipt of the complaint from the victim. The reply filed by the State itself shows that after receipt of the complaint to the

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Dean of VNGMC, three members Committee was constituted and enquiry was conducted by the said Committee and the Committee found no substance in the allegations made by the victim and the Committee came to the conclusion that the mental balance of the victim is not proper therefore, she needs detailed psychiatrist evaluation and as per the report of the Psychiatrist, she was sent on leave. The Committee report further shows that the victim is already transferred from the said department to other department by issuing order dated 07.03.2022. The reply further shows that the employees of the hospital have not supported the case of the victim and they have stated that no such incident has happened in their presence, as the duty shift of the other witnesses who are employees of the said department are different. Thus, considering the reply filed by the State, it reveals that there is no substance in the allegations. We have also perused the statements of the various witnesses which are recorded during the investigation. Not a single witness has supported the contention of the informant. Moreover, the alleged incident as per the victim is from 26.11.2016 to 16.02.2022, she has narrated the two incidents dated 26.11.2016 and 16.02.2022. Even accepting that applicant No.2 has sexually harassed her on 16.02.2022, there is no immediate disclosure of the said incident. Thereafter also after six days, she approached to the police and lodged the

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report. There is no explanation for the delayed reply. Considering the reply filed by the State, delay in lodging the FIR and the communications by the hospital to the applicant No.2, the duty chart which shows the duty timing of the applicant No.1 and the informant on the date of incident i.e. on 26.11.2016 was different, no *prima facie* case is made against the present applicants.

9. It is contended by the learned counsel for the informant that she belongs to the Scheduled/Scheduled Tribe and she was insulted and humiliated by the applicants. Now it is well settled that all insults or intimidations 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. There is no statement in the FIR that despite the applicants were knowing that she belongs to the Scheduled Caste or Scheduled Tribe, they have subjected her for the sexual assault. It is observed by the Hon'ble Apex Court in the case of **Shajan Skaria Vs. The State of Kerala and another in Criminal Appeal No.2622/2024 decided on 23.08.2024**, "merely on the fact that complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such member for the reason that he belongs to such

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community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract the provisions of Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.”

10. Here though offences is not registered against the applicants under Section 3(1)(r) of the Act of 1989, but the offence is registered under Section 3(1)(xi) of the Act of 1989. The same analogy can be applied to consider whether there is a *prima facie* material or not. Merely because she belongs to the Scheduled Caste or the Scheduled Tribe and the allegation levelled by her are baseless, the offence is not made out against the applicants.

11. Learned counsel for the applicants placed reliance on the decision of **Hasmukhlal D. Vora and another vs State of Tamil Nadu**, wherein by referring the decision of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, wherein the broad guidelines are laid down for quashing of criminal complaint which are 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.

(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.

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(5) 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.

(6) 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.

(7) 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."

12. In the case of State of **A.P. vs. Golconda Linga Swamy** reported in **(2004) 6 SCC 522** wherein also the Hon'ble Apex Court held that "...Authority of the Court exists for advancement of justice, and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that

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initiation or continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

13. In view of the above observations and considering the facts of the present case, the report of the Committee which was constituted to ascertain the genuineness of the allegations and delay in lodging the FIR sufficient to held that no *prima facie* case is made out against the present applicants and therefore, the application deserves to be allowed. Similar is the observation in the case of **State of Odisha Vs. Pratima Mohanty and others** referred supra.

14. While quashing the criminal proceeding, we have to advert the aforesaid aspects and the enquiry which required to be conducted as to reliability and genuineness of the evidence collected during the investigation, a *prima facie* case is not made and therefore, the application deserves to be allowed. Accordingly, we proceed to pass following order:

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ORDER

(i) The application is **allowed**.

(ii) The First Information Report in connection with Crime No.109/2022 registered with Police Station Yavatmal City, District Yavatmal for the offence punishable under Sections 354, 354-A, 354-D read with Section 34 of the Indian Penal Code and under Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), Act 1989, is hereby quashed and set aside to the extent of the present applicants.

The application is disposed of.

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