



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

Criminal Application (APL) No.397/2020

[Khushi V State of Maharashtra and another]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V.S. Mishra, Advocate for applicant.
Mr. Mir Rizwan Ali, Advocate for NA no.2.
Mr. S. Ashirgade, APP for State.

Coram : Anil S. Kilor and Pravin S. Patil, JJ.

Date : 25-03-2025.

By this application filed under Section 482 of the Code of Criminal Procedure, the applicant is seeking quashing of charge-sheet No.93/2024 dated 20-06-2024 filed against the applicant and four other co-accused for the offences punishable under Sections 143, 147, 149, 323, 427, 448, 452, 504 and 506(2) of the Indian Penal Code.

ii. It is the case of the prosecution that the informant is a Director of the institution known as Church of North India Social Service Institute. The informant is working in the said institute. It is the further case of the informant that the accused entered the premises of the institute admeasuring 400 sq.ft. and started demolishing the wall of the institute. It is further alleged that the accused abused the informant in filthy language and assaulted her. It is further alleged that they formed an unlawful assembly with common intention to commit the alleged offence.

iii. We have heard the learned Advocate for the respective parties.

iv. Mr. Mishra, learned Advocate for the applicant points out that except the vague allegations that the applicant abused the informant in filthy language, there is no role attributed to the applicant in the alleged offence.

v. It is pointed out that even in the supplementary statement, there is no role attributed to the applicant. He further points out that as far as the allegations as regards the unlawful assembly is concerned, there is no material to show that there was any common intention. He accordingly, prays for quashing of the chargesheet.

vi. Learned APP and the learned Counsel for the non-applicant no.2 strongly opposed the application. It is argued that there is sufficient material to show prima facie complicity of the applicant in the present crime and he therefore submits that this is not a fit case for quashing of the chargesheet.

vii. In view of rival submissions, we have perused the chargesheet and the FIR. In the statement recorded under Section 161 of the Cr.P.C. and the supplementary statement of the informant, except the allegation that the applicant was present with the co-accused on the spot on the date of incident and abused the informant in filthy language, there is no other allegation against the applicant. Therefore, at the most it can be said that Section 294 of IPC would attract against the applicant. However, the allegations are vague and there is no mention of the words spoken and used. Whereas, such details

are given in respect of accused no.1.

viii. The narration of role played by accused no.1, shows that the informant gave the detail. Whereas of it such details are absent in respect of the applicant.

ix. In the circumstances, it cannot be said that even Section 294 of IPC would attract against the applicant.

x. As far as unlawful assembly is concerned, nothing is brought on record to show that there was any common intention or the applicant or she had any knowledge about the intention of the co-accused.

xi. In absence of such material on record, it is difficult to say that there was any common intention.

xii. In the circumstances, we are of the opinion that this is a fit case for quashing of chargesheet. Accordingly, the application is allowed.

xiii. Charge-sheet No.93/2024 filed against the applicant in R.C.C. No. 2292/2024 for the offences punishable under Sections 143, 147, 149, 323, 427, 448, 452, 504 and 506(2) of the Indian Penal Code, is quashed and set aside.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)