



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

CRIMINAL APPLICATION (APL) NO. 636 OF 2025

Amol s/o Suresh Pachade and another
Vs.

State of Maharashtra, through its Police Station Officer, Police Station
Mana, District Akola 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. S. P. Ghatol, Advocate for applicants.
Mr. Aditya Gohokar, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 21/11/2025

1. Present application is preferred by the applicants for quashing of the First Information Report in connection with Crime No.215/2023 dated 31.08.2023, registered with Police Station, Mana, District Akola, for the offence punishable under Sections 447 and 427 read with Section 34 of the Indian Penal Code.

2. The applicants are arraigned as an accused on the basis of a report lodged by the informant, namely Gangadhar Shankar Shinde, on an allegation that the applicants and the non-applicant No.2 are agriculturists. The non-applicant No.2 is cultivating his field which is in the name of his father Shankar Shinde, situated at Gat No.223, admeasuring 5 acres at Gram Pahi. It is further alleged that the field of the complainant as well as the present applicants are adjacent to each other. There was a previous dispute regarding the

boundary between the non-applicant No.2 and the applicants. On 31.08.2023, the report is lodged on an allegation that when he had been to his agricultural field, he found that the standing crop is destroyed, situated on 3 acres of his land by using insecticides. He raised the suspicion against the present applicants. On that basis, the crime was registered against them.

3. Heard learned counsel for the applicants, who submitted that except the suspicion, there is no material to connect the applicants with the alleged offence. He invited our attention towards the report of the Agriculture Officer, which shows that the crop is standing in the agriculture field of the present applicants. Thus, he submitted that no *prima facie* case is made out against the present applicants. On the contrary, it is clear that with the false and fabricated allegations, the FIR is lodged against the present applicants. In view of the observations of the Hon'ble Apex Court in the case of in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, wherein the parameters are laid down by the Hon'ble Apex Court, by applying the said parameters, which are reproduced 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.

(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.”

4. The *prima facie* case is not made out, and in view of that, the application deserves to be allowed.

5. Per contra, learned APP strongly opposed the said application and submitted that due to the previous enmity, the applicants have caused damage to the crop of the complainant. As there was a previous enmity between them, which is sufficient to ascertain that applicants have caused the damage to the crop which was standing in the field of present complainant. In view of that, he prays for rejection of the application.

6. After hearing both sides and on perusal of the entire investigation papers, except the suspicion and the hearsay material in the statements of the witnesses, no other material is collected during the investigation. The report of the Agriculture Officer is contrary to the allegations, which shows that the crop is standing in the agriculture field of the present applicants. Thus, it is apparent that no *prima facie* case is made out against the present applicants. In view of parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** referred supra, the applicants have made out a case and therefore, we proceed to pass following order:

ORDER

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

(ii) The FIR in connection with Crime No.215/2023 dated 31.08.2023, registered with Police Station, Mana, District Akola, for the offence punishable under Sections 447 and 427 read with Section 34 of the Indian Penal Code and charge sheet bearing No.34/2023 dated 05.12.2023 and consequent proceeding arising out of the same bearing SCC No.1091/2023, pending in the Court of learned Judicial Magistrate First Class, Murtizapur, District Akola, is hereby quashed and set aside to the extent of present applicants.

The application is disposed of in the above said terms.

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