



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

CRIMINAL APPLICATION (APL) NO.988 OF 2023

APPLICANT : **Pratik S/o. Sushil Balpande,**
Aged about 29 years, Occ. Business, R/o. Plot
No.133, C/o Shri Ramchandra Bawankar,
Suryanagar, Kalamna, Nagpur.

..VERSUS..

NON-APPLICANTS : 1. **The State of Maharashtra,**
Through Police Station Officer, Police
Station Kalamna, District Nagpur.

2. **Neha Shubham Akare,**
Age 25 years, Occ. Housewife, R/o. Plot
No.34, Gurudev Nagar, Behind Hanuman
Mandir, Nandanwan Nagpur.
Presently resident of Plot No.82, Jai Ganga
Maa Society, Gulmohar Nagar, Bharatwada
Road Nagpur.

Mr P. J. Mehta, Advocate for Applicant.
Ms H. N. Prabhu, Addl. P. P. for Non-Applicant/State.
Ms A. Murrey, Advocate for Non-Applicant No.2 (Appointed).

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

RESERVED ON : **30th SEPTEMBER, 2025.**

PRONOUNCED ON : **7th NOVEMBER, 2025.**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

. Heard.

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

3. The applicant has approached this Court by filing the present application under Section 482 of the Criminal Procedure Code, 1973 for quashing of the First Information Report in Crime No.39 of 2023 dated 23.01.2023 and subsequent charge-sheet dated 15.06.2023 bearing Charge-Sheet No.90 of 2023 pending before the learned Chief Judicial Magistrate, Nagpur for the offences punishable under Sections 354, 354(A), 419 and 420 of the Indian Penal Code, 1860.

4. It is the case of the non-applicant No.2 and according to the contents of the First Information Report, that on 11.05.2018, the non-applicant No. 2 got married to one Shubham Yuvraj Akare. Out of the said wedlock, they have one daughter named Myra, aged 3 years. It is alleged that after marriage, her husband and in-laws subjected her to mental and physical harassment and made repeated demands for money. It is further stated in the report that in September - 2021, she was being informed by her aunt about one Pratik Balpande (applicant) who helps people in distress through an advocate. The non-applicant No. 2, along with her mother and aunt, went to meet the applicant seeking assistance regarding her matrimonial issues. Subsequently,

as the disputes with her husband worsened, on 15.05.2022, the non-applicant No. 2 again visited the house of the applicant along with her mother and aunt and informed him that she had already lodged a complaint under Section 498-A of the Indian Penal Code, 1860 at Nandanvan Police Station, District Nagpur and that she now desired to obtain a divorce.

5. It is further alleged that the applicant assured her that he would send a legal notice to her husband and in-laws through an advocate and would also initiate proceedings for maintenance and custody. It is further alleged that in August - 2022, while she was visiting her friend, namely Sweety Ingle, the applicant called her on her mobile phone and asked her to come to his house for some work. Accordingly, she went to his house carrying her HP laptop. At that time, his wife was present, and he took her laptop jokingly and kept it with him, saying he would return it after two or three days. Later in August - 2022, when the informant again visited his house to collect her laptop, it is alleged that the applicant, in his wife's absence, misbehaved with her by touching her inappropriately. When she resisted and tried to leave, he persisted in his indecent behavior. The applicant even threatened the non-

applicant No. 2 of ruining her case if she disclosed the facts of the incident to anyone. Out of fear, she did not reveal the incident to anyone at that time. It is further alleged that despite repeated requests, the said applicant did not return her laptop, and only on 19.12.2022, when she sent her tenant, namely Avi Chouriya, to his house, the said laptop was returned to her.

6. We have heard Mr. Pratik J. Mehta, learned counsel for the applicant, Ms. H. N. Prabhu, learned Additional Public Prosecutor for non-applicant No. 1/State and Ms. Archana Murey, Advocate for non-applicant No.2.

7. Learned counsel for the applicant submits that a meaningful reading of the First Information Report would reveal that no offence is made out under Sections 354, 354-A, 419 and 420 of the Indian Penal Code, 1860 as alleged. It is his submission that even if the allegations in the First Information Report are taken at their face value, they do not disclose the ingredients of the said offences.

8. It is further submitted by the learned counsel for the applicant that the alleged incident is said to have occurred in August

2022, whereas the said First Information Report came to be lodged only on 23.01.2023, after a gap of nearly five months, without any plausible explanation for such delay. This itself creates serious doubt about the veracity of the complaint. It is further submitted that the non-applicant No. 2 was well acquainted with the applicant prior to the alleged incident, as he is a relative of her husband and a business associate of her father-in-law. She visited the applicant's residence on several occasions for family and religious functions along with her in-laws, which is not disputed. It is the case of the applicant that the non-applicant No.2 approached him voluntarily seeking assistance in resolving her matrimonial dispute with her husband and in-laws. The applicant acting in good faith, attempted reconciliation between both sides. However, when the non-applicant No. 2's demand for a higher amount of permanent alimony was not met, she threatened the applicant that she would implicate him in a false case if he refused to mediate further. The present First Information Report is, therefore, a clear outcome of such threat and is filed with mala fide intention.

9. Learned counsel further draws our attention to the fact that prior to the registration of the impugned First Information

Report, an intimation letter dated 21.01.2023 was issued to the applicant by the Police Station Officer regarding an entirely different complaint made by non-applicant No.2, wherein she had alleged cheating and impersonation, but made no mention whatsoever of any allegation relating to outraging her modesty. This demonstrates that the present allegations are an afterthought. It is further pointed out that the conduct of non-applicant No.2 subsequent to the alleged incident completely falsifies her claim. Even after the alleged incident, she remained in contact with the applicant and his wife, attended Navratri Garba functions organized by them and never disclosed any such grievance. The photographs and chat records annexed to the petition substantiate this fact. Learned counsel submits that the entire case is based on false, vague, and contradictory statements. All witnesses cited in the charge-sheet are related or interested witnesses and no independent witness supports the prosecution version. Furthermore, none of the statements disclose the date or details of the alleged occurrence. Hence, continuation of proceedings against the applicant would amount to abuse of the process of law.

10. The learned counsel for the applicant placed reliance on the judgment of the Hon'ble Supreme Court in the case of *State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335*, to contend that where the allegations made in the First Information Report, even if taken at their face value, do not constitute any offence. Therefore, the First Information Report and subsequent proceedings deserve to be quashed under Section 482 of the Cr.P.C. It is further submitted that the chances of conviction are bleak and no useful purpose would be served by allowing such prosecution to continue. Reliance is also placed by the learned counsel on *Madhavrao Jiwajirao Scindia vs. Sambhajirao Chandojirao Angre, AIR 1988 SC 709* wherein, the Hon'ble Supreme Court held that where the proceedings are manifestly attended with mala fides or are instituted with ulterior motives, the same deserve to be quashed in the interest of justice.

11. In the backdrop of these submissions, we have perused the First Information Report and the consequent charge-sheet. As can be seen from the said charge-sheet, the First Information Report in question is lodged by the non-applicant No.2. We have appreciated the controversy in light of these facts. As

can be seen from the First Information Report in question, the offences complained of are under Sections 354 and 354(a) of the Indian Penal Code, 1860 which speaks about molestation. The said First Information Report is lodged on 23.01.2023 for incident which allegedly happened in the month of August - 2022, therefore there is an inordinate delay of about four months in lodging of the First Information Report. As can be seen from the notice/intimation letter by the investigating officer sent to the present applicant on 21.01.2023, the only allegation is regarding the monetary part and retaining the custody of laptop. There are no allegations about molestation. Furthermore, there is no incriminating material against the applicant.

12. We have also perused WhatsApp chats filed by the investigating officer on record. Thus, it is clear that the First Information Report in question is filed only to wreck vengeance against the applicant and therefore smacks of *mala fides*. It would be therefore appropriate to set aside the First Information Report and the consequent charge-sheet on record since the allegations made in the complaint do not make out any offence against the applicant. It seems that there is monetary dispute between the applicant and the

non-applicant No.2 which was given a colour of criminality, prompting non-applicant No. 2 to file the said First Information Report. Thus, the continuance of the proceedings would amount to harassment to the applicant and would therefore squarely fall within the following parameters of the decision of the Hon'ble Supreme Court in the case of ***Bhajan Lal*** (supra) :

“(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)

(c) 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;

(d)

(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;

(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.”

13. Therefore, we pass the following order :

ORDER

- i) The criminal application is allowed.
- ii) The First Information Report No.39 of 2023 dated 23.01.2023 registered with Police Station Kalamna, District Nagpur for the offences punishable under Sections 354 and 354-A of the Indian Penal Code, 1860 as also the charge-sheet bearing No.90 of 2023 are hereby quashed and set aside.
- iii) The application is disposed off accordingly.

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