



Judgment

517 apl794.25

1

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

CRIMINAL APPLICATION (APL) NO.794 OF 2025

Kunal s/o Rupchand Undirwade,
aged about 33 years,
occupation – service,
r/o Qtr.No.BF, Civil Lines,
Nagpur. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra,
through Police Station
Sindewahi, district Chandrapur.

2. Sau.Chaitali Motiram Kawale,
aged about 25 years,
occupation – service,
r/o Government Quarter,
Public Health Centre,
Nawargaon, tahsil Sindewahi,
district Chandrapur. **Non-applicants.**

**Shri Mohan Sudame, Senior Counsel assisted by Shri
Akhilesh Potnis, Advocate for the Applicant.
Shri A.G.Mate, Addl.PP for NA No.1/State.
Shri L.B.Khergade, Counsel for NA No.2.**

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

**CLOSED ON : 11/12/2025
PRONOUNCED ON : 18/12/2025**

JUDGMENT (Per : Urmila Joshi-Phalke)

1. Heard learned Senior counsel Shri Mohan Sudame for the applicant; learned Additional Public Prosecutor Shri A.G.Mate for the State, and learned counsel Shri L.B.Khergade for non-applicant No.2.

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.137/2021 dated 27.4.2021 registered under Section 354 and 354-A of the IPC and consequent proceeding arising out of the same bearing RCC No.30/2024 pending before learned JMFC, Sindewahi.

3. Brief facts necessary for disposal of the application are as under:

3

As per contentions of the applicant, he was working as “Principal of Gramsewad Training Centre, Sindewahi and was also Incharge Block Development Officer, Panchayat Samiti, Sindewahi. He was assigned with duty to supervise the Public Health Care System, which is under the Panchayat Samiti, Sindewahi. The Public Health Centre of Nawargaon was also under his jurisdiction as Block Development Officer, Panchayat Samiti, Sindewahi. The crime was registered against him on the basis of a report lodged by Chaitali Motiram Kawale serving as Medical Officer with Public Health Centre, Nawargaon on allegation that on 6.4.2021, when she received a message that the applicant has called her at Sindewahi, she has shown her inability to attend the office of the applicant as she was busy in “Covid Vaccination Training” and Meeting. It is alleged that on 7.4.2021, she has made a phone call to the applicant, but

4

the same was not received. As per her allegation, with an ill-intention, the applicant used to call her in his office and also communicate her, which were showing his “sexual intent”. There was also sexual overtures on his part. On 24.4.2021, mistakenly, she has given a phone call to the applicant and, on that cannot also, she was humiliated and insulted by the applicant.

4. On the basis of the said report, the police registered the crime against the applicant.

5. Learned Senior Counsel for the applicant submitted that one letter was received on 5.4.2021 in the office of the applicant informing that some fake bills were produced without consent of the Medical Officer at Nawargaon and the said Medical Officer was not aware about the said bills and requested to enquire and, therefore, he verified the bills and it revealed that non-applicant No2 has obtained the said bills from Pharmacy

5

of her brother-in-law and that too without purchasing of medicines and equipment. Therefore, the applicant refused to approve and sanction the said bills. Non-applicant No.2 visited the office of the applicant and pressurize him to approve the bills of Rs.1.00 lac and left the premises. On 24.4.2021, he also received a communication that non-applicant No.2 has not attended her duty without obtaining leave and it was difficult to handle situation arising out of “Corona Virus” and, therefore, requested to take necessary action. Therefore, the applicant has called her and asked her about vaccination and sent her a message to perform duty punctually. As the applicant has not approved the said bills submitted by non-applicant No.2, these false and baseless allegations are levelled against him.

He has also invited our attention towards WhatsApp Chats and submitted that the WhatsApp Chats

6

are substantiated the contention of the applicant that he has sent a message on 24.4.2021 that she should attend the duty punctually.

He has also invited our attention towards Enquiry Report conducted by the Committee constituted for the purposes of “addressing grievances of lady employees regarding sexual assault at work place”. He submitted that the report of the said Enquiry Committee specifically shows that allegations, regarding sexual overtures or ill-intention of the applicant attracting his sexual intents, are not proved. The only allegation of creating false documents is made out against the applicant. At the most, it would be a misconduct on his part. As far as allegation in the FIR is concerned, the same is neither substantiated by any statements of witnesses nor by any material. The documents collected during the investigation show that non-applicant No.2

has prepared fake bills and was insisting the applicant to approve the said bills. As the applicant has declined to approve the said bills, this false FIR came to be lodged against him. The delay in lodging the FIR is not explained by non-applicant No.2.

He submitted that considering the law laid down by the Hon'ble Apex Court, that once in a departmental enquiry an employee is exonerated, it would be unjust and abuse of process of the law to permit criminal prosecution against the said person.

6. In support of his contentions, learned Senior Counsel for the applicant placed reliance on following decisions:

(1) Radheshyam Kejriwal vs. State of West Bengal and anr, reported in (2011)3 SCC 581;

(2) Ashoo Surendranath Tewari vs. Deputy Superintendent of Police, EOW,

CBI, and anr, reported in (2020)9 SCC 636;

(3) State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335;

(4) Rajiv Thapar and ors vs. Madan Lal Kapoor, reported in (2013)3 SCC 330, and

(5) Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and ors vs. State of Gujarat and anr, reported in (2017)9 SCC 641.

7. *Per contra*, learned Additional Public Prosecutor for the State and learned counsel for non-applicant No.2 strongly opposed the said contentions and submitted that recital of the FIR as well as Enquiry Report shows the misconduct on the part of the applicant. The statement of the informant is substantiated by the said Enquiry Report as well as statements of other witnesses. In view of that, a *prima facie* case is made out against the

applicant and, therefore, the application deserves to be rejected.

8. On hearing both the sides, it would be appropriate to refer guidelines issued by the Hon'ble Apex Court as to inherent powers of the High Court.

9. The broad principles emerge from precedents on the aforementioned subject summarized in **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and ors** *supra*, are as follows:

“(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court;

(2) The invocation of the jurisdiction of the High Court to quash a First

10

Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends

11

of justice or (ii) to prevent an abuse of the process of any court;

(5) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in

12

nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(9) In such a case, the High Court may quash the criminal proceeding if in view of

13

the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance".

10. In the instant case, the FIR came to be lodged by the Medical Officer serving in a Primary Health

14

Centre. As per allegations, the applicant called her on 6.4.2021 and asked her to come at Sindewahi. However, she has shown her inability and, therefore, he insisted her to call and on 7.4.2021, at around 10:30 am, when she called the applicant, the applicant did not pick up her call. Thereafter, she informed the applicant on WhatsApp that she has reached Sindewahi as per his instructions, but the applicant unnecessarily forced her to wait. It is further alleged that when she visited the office of the applicant, with an ill-intention, the applicant said to her that she should come near to him, should talk to him and should be in touch with him. As she felt embarrassed, she left the chamber. Thereafter, the applicant, many times, tried to call her and asked her to meet him. The informant felt harassed at the hands of the applicant and, therefore, she lodged the report. She has also forwarded her grievances to the Committee, which is

15

formed under the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redress) Act, 2013. The Committee has conducted an enquiry and concluded that as far as allegations, regarding the “sexual overtures” and “sexual intent” of the applicant and the communication of the applicant with the informant with “sexual intent”, are concerned, it has no substance. However, the Committee has come to conclusion that the applicant is found guilty for preparing documents on the basis of the false information collected from other employees without verifying the same.

11. The FIR against the applicant came to be lodged under Section 354 and 354-A of the IPC.

12. Section 354 of the IPC is reproduced as under for reference:

“354. Assault or criminal force to woman with intent to outrage her modesty. -

16

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine]”.

13. Section 354-A of the IPC is reproduced as under for reference:

“354-A Sexual harassment and punishment for sexual harassment. -

(1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

17

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both”.

14. Thus, in view of definition provided under Section 354-A of the IPC, whoever assaults or uses criminal force to any woman or abets or conspires to assault or uses such criminal force at any woman intending to outrage or knowing it to be likely that by such assault he will thereby outrage or causes to be

18

outraged the modesty of a woman, is said to have committed the offence of sexual harassment.

15. Any sexual act performed without a woman's consent constitutes "sexual assault". It includes unwanted touching of private parts, forced kissing, or other sexual contact with a woman and modesty involves acts that are offensive, indecent, or degrading to a woman's sense of decency and morality. It includes acts like inappropriate touching, forcible disrobing, indecent gestures or remarks with the intent to insult modesty.

16. Said Section 354 of the IPC deals with "assault or criminal force to woman with intent to outrage her modesty". The said Section states that whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty shall be punished with imprisonment of either description for a term which shall

19

not be less than one year but which may extend to five years, and shall also be liable to fine.

17. Admittedly, “modesty” is not defined in the IPC. However, it refers to indecent propriety of a woman and conduct. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.

The same ingredients to attract the offence must be fulfilled.

18. As far as the present case is concerned, the Enquiry Report specifically shows that the said allegations

20

are not substantiated by any material. The investigating officer has also recorded the statements of various employees of the office. However, as far as the allegations are concerned, the same are not substantiated by any material and before the Enquiry Committee also, the informant could not prove the same and, therefore, from the said allegations, the Enquiry Committee has exonerated the applicant.

19. This aspect is considered by the Hon'ble Apex Court in catena of decisions.

20. The Hon'ble Apex Court, in the case of **Radheshyam Kejriwal** *supra*, by referring the decision in the case of **Standard Chartered Bank and ors, vs. Directorate of Enforcement and ors, reported in (2006) 4 SCC 278**, held that, "adjudication proceeding and criminal proceeding are two independent proceedings and both can go on simultaneously and finding in the

21

adjudication proceeding is not binding on the criminal proceeding and the judgments of this Court in the case of **Uttam Chand, G.L.Didwania** and **K.C.Builders** wherein this Court had taken a view that when there is categorical finding in the adjudication proceeding exonerating the person which is binding and conclusive, the prosecution cannot be allowed to stand. Judgments of this Court are not to be read as statute and when viewed from that angle there does not seem any conflict between the two sets of decisions. The ratio which can be culled out from these decisions can broadly be stated as follows :-

- (i) Adjudication proceeding and criminal prosecution can be launched simultaneously;
- (ii) Decision in adjudication proceeding is not necessary before initiating criminal prosecution;

22

(iii) Adjudication proceeding and criminal proceeding are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceeding is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceeding by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceeding in favour of the person facing trial for identical violation will depend upon the nature of

23

finding. If the exoneration in adjudication proceeding is on technical ground and not on merit, prosecution may continue; and

(vii) In case of exoneration, however, on merits where allegation is found to be not sustainable at all and person held innocent, criminal prosecution on the same set of facts and circumstances can not be allowed to continue underlying principle being the higher standard of proof in criminal cases”.

21. The similar view is taken by the Hon’ble Apex Court in the case of **Ashoo Surendranath Tewari** *supra* wherein it is held as under:

“In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the

24

person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.”

22. Applying the aforesaid decisions to the facts of the present case in hand, admittedly, the allegations levelled against the applicant in the adjudication proceeding are similar and identical to the allegations levelled in said FIR. The Committee also held that the said allegations are not substantiated by any material and he is exonerated from the said charges. Bearing in mind the principles laid down by the Hon’ble Apex Court, in the adjudication proceeding on merits, the adjudicating authority has categorically held that the charges against the applicant, as far as “sexual intent” and “sexual overtures,” are concerned, the same are not established

25

by the informant and, therefore, continuation of the present proceeding against him would be an abuse of process of the law.

23. As far as other allegations are concerned, the contents of the FIR nowhere allege that the applicant has prepared any false documents against the informant and the concerned department will take care of the other allegations as far as “misconduct” on the part of the applicant is concerned.

24. In the present case, only the question is, whether the material is sufficient to frame charge against the applicant, as far as allegations regarding outraging of modesty is concerned.

25. As already observed, the said charge is not substantiated by any material and is not proved before the Committee constituted in view of the provisions of

26

the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redress) Act, 2013.

26. Thus, in adjudication proceeding itself, standard of proof is lesser than the standard of proof required in the criminal proceeding wherein also the informant could not establish the said allegations and he is exonerated from the said charges.

27. In view of that, continuation of the above said proceeding would be an abuse of process of law. As such, the application deserves to be allowed, as per order below:

ORDER

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

(2) FIR in connection with Crime No.137/2021 dated 27.4.2021 registered under Section 354 and 354-A of the

IPC and consequent proceeding arising out of the same bearing RCC No.30/2024 pending before learned JMFC, Sindewahi are hereby quashed and set aside to the extent of applicant Kunal s/o Rupchand Undirwade.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!