



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

CRIMINAL APPLICATION (APL) NO.758 OF 2020

APPLICANTS

- : 1. **Nitin Suresh Kale**,
aged about 41 years, Occ: Service, R/o Plot No.A-21, New Kailash Nagar, Bhagwan Nagar, Nagpur, Dist. Nagpur.
2. **Lalita Ramesh Meshram**,
aged about 49 years, Occ: Service, R/o D-72/4, Prakash Nagar Colony, Khaparkheda, Nagpur.
3. **Satish Madhukar Dudhane**,
aged about 36 years, Occ: Service, R/o 259, Mhalgi Nagar, Freedom Fighter Colony, Hudkeshwar Road, Rajapeth, Nagpur.
4. **Shankar Vilas Puranik**,
aged about 37 years, Occ: Service, R/o Near Mahadev Mandir, Babupeth Ward no.3, Chandrapur, Dist. Chandrapur.
5. **Rajani Udaram Kargaonkar**,
aged about 44 years, Occ: Service, R/o 209, New Narsala Road, Behind Besa Powerhouse, Shri Mahalaxmi Nagar, Hudkeshwar Bk., Mhalginagar, Nagpur.

..VERSUS..

NON-APPLICANTS

- : 1. **State of Maharashtra**, through Police Station Officer, Police Station Khaparkheda, Dist. Nagpur.
2. **Homeshwar K. Pawar**,
aged about 56 years, Occ: Service, office at Tahsil Office, Saoner, Khaparkheda, Dist. Nagpur.
3. **Sthanik Kantratdar Kalyan Association**, Khaparkheda, through its President, Shri. Ashok M. Ramteke, aged about 60

years, office at Ward no.5, Golbazar,
Khaparkheda, Tah. Saoner, Distt.
Nagpur.

Mr. A. M. Ghare, Advocate for Applicants.
Ms S. Dhote, Addl. P. P. for Non-Applicant/State.

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

RESERVED ON : **14th OCTOBER, 2025.**

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

JUDGMENT (PER : NANDESH S. DESHPANDE)

. Heard.

2. **Admit.** Heard finally by the consent of learned
counsels appearing for the parties.

3. This is an application filed under Section 482 of the
Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr. P
C.”) seeking to quash and set aside the First Information Report
(FIR) No. 0501 of 2020 dated 14.08.2020 registered with non-
applicant No.1 i.e. Police Station Khaparkheda, District Nagpur
Rural at the instance of non-applicant No.2.

4. In the said First Information Report, the applicants
herein have been accused of committing an offence punishable

under Sections 188, 269 and 270 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “I.P.C.”) along with Section 51(b) of the Disaster Management Act, 2005. As per the allegations made in the First Information Report, the applicants herein committed the offences stated supra by violating the order promulgated by public servant at Thermal Power Station, Khaparkheda and more particularly, at the office named as Soudamini during Covid – 19 period. It is further stated in the First Information Report that the applicants, without keeping social distancing and without putting a mask on their face, have celebrated the function of birthday, and therefore, they have committed the said offences. It is this First Information Report which is challenged in the present application filed under Section 482 of the Cr.P.C.

5. We have heard Mr. Ajay Ghare, learned counsel appearing on behalf of the applicants as well as Ms. Sneha Dhote, learned Additional Public Prosecutor for the Non-Applicant/State.

6. Mr. A. M. Ghare, learned counsel for the applicants, submits that the First Information Report is lodged out of vengeance and that it is only the non-applicant No.3 who is

instrumental in doing so. It is relevant to point out that the President of non-applicant No.3 is in illegal occupation of a shop blocks bearing No.6, 8, 9 and 10 situated at Gol Bazar in the housing colony owned by Khaparkheda Thermal Power Station. Since, the said Thermal Power Station was contemplating an action of recovery and possession of the said shop, the President of non-applicant No. 3 filed a petition bearing No. LD-VC-CW No.205 of 2020 before this Court terming it as a public interest litigation. However, the said petition was dismissed by this Court vide its order dated 21.08.2020. In the backdrop of these facts, the said President of non-applicant No.3/Sthanik Kantratdar Kalyan Association was holding a grudge against the officers of Khaparkheda Thermal Power Station and only with an ulterior motive to pressurize the officers and dissuade the Khaparkheda Thermal Power Station from taking action against him, the First Information Report came to be filed. It is therefore the submission of Mr. A M. Ghare, learned counsel for the applicants that the action is vindictive in nature and no offence is made out much less in the complaint or in the First Information Report.

7. On the other hand, Ms. S. S. Dhote, learned Additional Public Prosecutor vehemently opposed the contentions raised by the learned counsel for the applicants and stated that a bare perusal of the allegations made in the First Information Report would reveal that an offence has been made out.

8. We have given our thoughtful consideration to the controversy involved in the present matter and perused the documents on record. It is worthwhile to mention here that the State of Maharashtra vide Government Resolution dated 20.09.2022 have issued a direction to withdraw the proceedings initiated under the Disaster Management Act, 1897 between the period 21.03.2022 to 31.03.2022. Accordingly, an order was passed by this Court on 06.01.2023 granting time to the State of Maharashtra to verify the position and whether the First Information Report has been forwarded to the Committee constituted as per the said Government Resolution referred supra. Time and again, the matter was adjourned thereafter. A reply affidavit of the State of Maharashtra also bears the reference of the said Government Resolution mentioned supra.

9. This Court vide its order dated 16.04.2024 observed that as to whether the State would consider and satisfy itself about the case of the applicants falling within the parameters laid down in the Government Resolution. However, in spite of sufficient opportunity, nothing concrete has been placed on record as to whether the matter has been placed before the Committee constituted under the said Government Resolution. This Court had, vide order dated 30.09.2025, granted time to the learned Additional Public Prosecutor to make an appropriate statement. However, as no such statement was made even on 14.10.2025, we proceeded to hear the matter on merits. As far as the offence under Section 188 of the I.P.C. is concerned, we have already taken a view in Criminal Application No.323 of 2025 that the said offence is not made out since Section 195 of the Cr.P.C. restrains the Court from taking cognizance of any offence punishable under the said section except on a complaint made in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.

10. Admittedly, in the present case, the complainant is non-applicant No.2 who is not administratively subordinate to the Collector nor he has been duly authorized for filing the said complaint. Thus, the offence under Section 188 of the I.P.C. is not made out. As far as the offence under Section 51(b) of the Disaster Management Act, 2005 is concerned, Section 60 of the said Act clearly speaks about bar of taking cognizance without a complaint made by the authorities mentioned in Clause (a) of the said Section. Thus, there is an express bar for taking cognizance of the offence except on a complaint as provided under Section 60. It is thus clear that even offence under Section 51(b) of the Disaster Management Act is also not made out. As far as the offences under Section 269 and 270 of the I.P.C. is concerned, there is no material in the First Information Report indicating that the offences have been committed by the accused persons i.e. the applicants herein. In our view, the offences under those Sections are also not made out. This situation is squarely covered within the well established parameters of the judgment of the Hon'ble Supreme Court in the case of *State of Harayana and Ors. vs. Ch. Bhajan Lal and Ors., 1992 AIR 604*

and more particularly within parameter No. 8.1., which reads as under :

“(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)

(d)

(e)

(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)”

11. In that view of the matter, we are of the considered opinion that the continuance of the proceedings against the applicants would be nothing but abuse of process of law. We, therefore, pass the following order :

ORDER

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

ii) First Information Report No.0501 of 2020 dated 14.08.2020 registered with non-applicant No.1 i.e. Police Station Khaparkheda, District Nagpur for the offences punishable under Sections 188, 269 and 270 read with Section 34 of the Indian Penal Code, 1860 and Section 51(b) of the Disaster Management Act, 2005, is hereby quashed and set aside.

iii) The application is disposed off accordingly.

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