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

CRIMINAL APPLICATION (APL) NO.1267 OF 2023

Tushar s/o Keshav Kosarkar,
Aged about 22 Years,
Occupation : Student,
R/o. Nanda Gomukh,
Tahsil Saoner, District Nagpur.

.... APPLICANT

// VERSUS //

1. State of Maharashtra, through
Police Station Officer,
Police Station, Parshioni, Nagpur,
(Gramin), District Nagpur.
2. Shailesh Manohar Madavi,
Aged about 30 Years,
Occupation : Service as a
Police Constable, Police Station
Parshioni, Tahsil Parshioni,
District Nagpur.
3. Superintendent of Police (Rural),
Nagpur, Tahsil and District Nagpur.
4. Shivaji Vikram Munde,
Aged about Major,
Occupation : Service,
R/o. C/o Superintendent of Police,
Pune, District Pune.
5. Shri Vijay Kakde,
Aged major,
Occupation : Service as a Police
Constable, through office
of Superintendent of Police (Rural),
Nagpur.

.... NON-APPLICANTS

Mr. S. D. Chande, Advocate for the applicant.
Mr. A. J. Gohokar, APP for State.

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

RESERVED ON : 03.12.2025

PRONOUNCED ON : 10.12.2025

JUDGMENT : (PER : URMILA JOSHI-PHALKE, J.)

1. **Admit.**

2. Heard finally with the consent of the learned Counsel of the parties.

3. Present application preferred by the applicant under Section 482 of the Code of Criminal Procedure for quashing of the First Information Report (for short 'FIR') vide Crime No.196/2023 dated 27.05.2023 registered with Parshioni, Nagpur (Gramin), District Nagpur for the offence punishable under Sections 332, 353, 294, 504 of the Indian Penal Code (for short 'IPC') and under Sections 100, 2, 177, 66(1), 192, 146 and 239 of the Motor Vehicles Act, 1988 (for short 'M.V. Act') and consequent proceeding arising out of the same bearing Sessions Case No.953/2025 pending before the District Judge – 18 and Additional Sessions Judge, Nagpur.

4. By this application, the applicant has prayed for quashing of the FIR as well as seeking directions to the non-applicant Nos.2, 4 and 5 to pay compensation of Rs.10,00,000/- each for illegal detention and violation of fundamental rights of the applicant, in the interest of justice.

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5. On 27.05.2023, the complainant Shailesh Manohar Madavi with the other police staff discharging his traffic duty, at that time, he stopped the vehicle of the applicant and made the challan process on the vehicle bearing No.MH-35-P-0657 as the vehicle of the applicant was having dark black film on the glass of his vehicle and also said vehicle was overloaded with the passengers. It was restrained by the complainant and other traffic police. It is alleged that the applicant abused the complainant during that process in a very filthy language, assaulted him on his person, obstructed him from discharging his public duty and fled away from the spot. Therefore, the police has chased and arrested him. On the basis of the said report, police have registered the crime against the present applicant.

6. Heard learned counsel for the applicant, who submitted that in fact, the alleged incident narrated by the complainant has not taken place. The applicant was proceeding in his vehicle. His vehicle was restrained by the police and he was detained by the police without any authority from 11.00 a.m. to 5.18 p.m.. Therefore, the applicant has made various complaints to the concerned superior officers of the non-applicant No.1 and specifically alleged against one Mr. Shivaji Vikram Munde, API, non-applicant No.2 Shailesh Manohar Madavi and Police Constable Kakade, who allegedly

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demanded illegal amount and after refusal by the applicant, the aforesaid three persons have assaulted the applicant and the applicant has been detained by the aforesaid three persons in their custody without any authority. The applicant by approaching to the superior officers specifically requested to make departmental inquiry and lodge the report against them. On the above said complaint dated 11.07.2023, the Secretary of the State of Maharashtra has informed to the Superintendent of Police, Nagpur for taking appropriate action on the complaint of the applicant. In view of the aforesaid communication by the Secretary of the State of Maharashtra, the Police Inspector, Police Station, Parshioni has called the applicant by issuing a summons for recording the statement on 27.07.2023. Accordingly, the applicant was present on 29.07.2023, however, his statement was not recorded on that day and his statement was recorded on 03.08.2023. As per the said statement, the non-applicant No.2 stopped the vehicle of the applicant and asked about the documents of vehicle. Despite the applicant has shown all the relevant documents of the vehicle to the non-applicant No.2, he asked for money and the applicant refused to fulfill the demand and warned him to make his complaint to his superiors. To safeguard themselves, the officials lodged the present FIR on the basis of false and baseless allegations against the applicant. It is further contended that

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these all three persons assaulted the applicant in isolated room in the Police Station. The applicant was referred to the hospital. The Medical Officer has treated him. Due to the pressure of the Police, the Medical Officer has also issued the fitness certificate. Thus, the applicant is a victim of alleged crime, merely because the FIR is lodged against him by the police officers to safeguard themselves from the complaints which are filed by the present applicant against them. He submitted that regarding the said incident, the inquiry was commenced against the non-applicant No.2 and others and the inquiry report which is filed on record shows that the non-applicant No.2 as well as other police officers held guilty for misconduct for detaining the present applicant without any authority for misleading the superior officers and thereby suggestion was given to impose the appropriate punishment on API Munde.

7. Learned counsel for the applicant submitted that this inquiry report as well as the statement of the witnesses, who were travelling in the vehicle of the present applicant shows that without any reason, the applicant was taken by the police officers in isolated room and he was assaulted. Thus, these statements are sufficient to show that on the basis of false and omnibus allegations, the applicant is implicated in the alleged offence and therefore, the application deserves to be allowed.

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8. Per contra, learned APP strongly opposed the said contention and submitted that vehicle of the accused/applicant Mahendra Bolero white coloured was seen coming from Amdi Fata to Parshioni in full speed, overloaded with ten passengers and dark black film, hence the complainant i.e. non-applicant No.2 as a matter of his official duty, intercepted the vehicle of the applicant and asked his name, address, documents and sitting capacity of the vehicle. At that time, the applicant was not replying properly and offered Rs.500/- to the police officers present on the spot. When they did not accept and insisting for legal challan, accused started abusing the complainant in very filthy language and when the non-applicant No.2 was making challan, accused came out of the vehicle and in hit of passion applied force and pushed back the complainant in order to assault and thereby committed an offence punishable under Sections 332, 353, 294, 504 of IPC and Sections 100, 2, 177, 239, 146, 66(1) and 192 of the Motor Vehicles Act. He submitted that considering the *prima facie* material against the present applicant, the application deserves to be rejected.

9. On hearing both sides and on perusal of the entire investigation papers, it reveals that the non-applicant has lodged the report against the present applicant on an allegation that when he was on duty to control the traffic, he witnessed one

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white coloured Bolero car coming in a high and excessive speed. He given a signal to stop the vehicle. In all nine persons were travelling in the said vehicle. On inquiry with the present applicant, he has answered arrogantly and also abused them and manhandled them. He has also started his vehicle and fled away from the spot. He was chased and thereafter, he was taken into custody and brought to the Police Station. The record further shows that after registration of the said crime, the applicant applied for bail and after releasing him on bail, he made a complaint to all the superior officers including the Chief Minister alleging that as the gratification amount was demanded by the non-applicant No.2 and other police officers, which he denied to pay and therefore, he is implicated in a false crime. His statement was also recorded during the investigation, wherein he also reiterated the said contentions. During the investigation, the Investigating Officer has also recorded the statements of various witnesses, who were travelling in the vehicle of the present applicant. The statements of these witnesses show that they were proceeding from Kachurwahi to Nanda Gomukh, they all nine in numbers. At about 12.00 p.m., they were restrained by the police. The applicant has not stopped vehicle immediately, but he has stopped the vehicle at some distance and applicant went towards the police. They heard the altercation of the words between the applicant and the police

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therefore, they went near both of them. At that time, police were asking that why he has applied the black film to his vehicle and the present applicant has offered Rs.500/- to the police, but the police were insisting him for challan. Thereafter, PSI Munde came there, who took the present applicant to the Police Station.

10. Taking cognizance of the various complaints filed by the present applicant, the inquiry was conducted to verify the genuineness of the allegation levelled against the present non-applicant No.2. The various statements including the passengers travelled by the said vehicle were recorded by the Inquiry Officer and on the basis of the said statements, it was held that the applicant was not arrested by observing the guidelines issued by the Supreme Court. In the said inquiry, it is further held that the present non-applicant No.2 and other police staff are involved in bringing the applicant at the Police Station without any reason and detaining him giving false information to the superiors. The Inquiry Officer further observed that the crime was registered against the present applicant on 27.05.2023 vide crime No.196/2023 at about 5.18 p.m., though his vehicle was restrained at about 12.00 p.m. The copy of the challan shows that it was prepared at 1.28 p.m. The applicant was brought in a DB (detection branch) room at about 11.51 p.m., but he was kept in isolated room where the CCTV cameras

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were not installed. The applicant was taken from DB room at about 3.35 p.m. and thereafter he was taken to the cabin of PSI Munde, wherein also he was detained for more than one hour. He was shown to be arrested at about 4.57 p.m., however, the station diary shows the timing of the arrest at about 7.42 p.m. The passengers were also brought to the Police Station by the non-applicant No.2 and other police officers without any reason. The applicant is charged for the offence punishable under Section 353 of IPC alleging that he has used the criminal force on the non-applicant No.2 and thereby deterred the public servant from discharging his duty. On perusal of the statements, this allegation is not substantiated by any of the witnesses, who were the passengers in the vehicle. The statements only disclose that there was altercation between the present applicant and the police officers. As far as the use of the criminal force is concerned, none of the independent witnesses has supported the contention of the non-applicant No.2 that present applicant has used any criminal force to deter him from discharging his duty. The definition of criminal force is given in Section 350 shows that whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to

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use criminal force to that other. The definition of assault is given in Section 351 of IPC which shows that whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Thus, after perusing both the definitions the ingredients which are required to constitute the offence under Section 353 is absent in the present case. The applicant is further charged for the offence punishable under Section 332 voluntarily causing hurt to deter public servant from his duty. Admittedly, the allegation regarding causing hurt is not substantiated by any statement or any medical certificate. In fact, the allegation that the present applicant has caused any hurt to public servant itself is absent in the statements of the witnesses which are recorded. The statements of the witnesses are only to the extent that there was altercation of the words between the present applicant and the informant and other police officials. Similarly, the offence of criminal intimidation under Section 504 of IPC and the offence obscene acts under Section 294 of IPC are also not made out against the present applicant.

11. As far as the offences punishable under Section Motor Vehicles Act are concerned, which are made out against the

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present applicant as the investigation papers disclose that he was carrying the passengers more than which is permissible, therefore, offence punishable under Sections 66(1) and 177 are made out, however, the offence under Section 192, 100, 2, 146 and 239 of the Motor Vehicles Act are not made out.

12. The applicant has claimed the compensation, however after going through the investigation papers, it reveals that the applicant was involved in carrying more passengers, which is not permissible. Considering the fact that applicant was carrying more passengers than permissible, therefore vehicle was intercepted. The allegation against police authorities is not substantiated by any medical evidence. The enquiry report discloses about his detention. However, when he was produced before the Magistrate, he has not made complaint about ill-treatment. Statements of the passengers show that he offered money to police official and his conduct disentitles him from claiming compensation. Admittedly, involvement of applicant reveals in offences punishable under the Motor Vehicles Act. Therefore, prayer of grant of compensation is rejected.

13. However, at this stage, considering the serious allegations made against the non-applicant No.2 and other police officers, the observations of the Hon'ble Apex Court in the case of **The State of Jharkhand Vs. Sandeep Kumar, MANU/SC/**

0176/2024 are relevant wherein it is observed "In the light of these serious allegations made against no less than a senior police officer, an essential cog in the machinery of law enforcement, the High Court ought not to have taken a liberal view in the matter for the mere asking. Considering the position held by the respondent, even if he was suspended from service and the chargesheet had already been filed against him, the possibility of his tampering with the witnesses and the evidence was sufficiently high. That apart, grant of such relief to a police officer facing allegations of manipulating the investigation so as to favour an Accused would send out a wrong signal in society. It would be against public interest. It is further held that the same standard would not be applicable when the Accused is the Investigating Officer, a police officer charged with the fiduciary duty of carrying forward the investigation to its rightful conclusion so as to punish the guilty. The respondent is alleged to have failed in this fundamental duty as a police officer. This consideration must necessarily weigh in with the nature of the offences and the possible punishment therefor.

14. It is apparent that the police officers in this case are the violators of law, who had the primary responsibility to protect and uphold law, thereby mandating the punishment for such violation to be proportionately stringent so as to have effective

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deterrent effect and instill confidence in the society. It may not be out of context to remind that the motto of Maharashtra State Police is "सद्रक्षणाय खलनिग्रहणाय" (Sanskrit: "To protect good and to punish evil"), which needs to be respected. Those, who are called upon to administer the criminal law, must bear, in mind, that they have a duty not merely to the individual accused before them, but also to the State and to the community at large. Such incidents involving police usually tend to deplete the confidence in our criminal justice system much more than those incidents involving private individuals.

15. Considering the investigation papers, which shows that offence under Sections 353, 332, 294 and 504 are not made out against the present applicant as well as the offence punishable under Sections 192, 239, 100, 2 and 146 of the M.V. Act are also not made out. Therefore, the application deserves to be allowed partly. Accordingly, we proceed to pass following order.

ORDER

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

(ii) The FIR First Information Report vide Crime No.196/2023 dated 27.05.2023 registered with Police Station Parshioni, Nagpur (Gramin), District Nagpur for the offence punishable under Sections 332, 353, 294 and 504 of the Indian Penal Code and under Sections 192, 239, 100, 2, 146 of the Motor Vehicles Act, 1988, and consequent proceeding arising out of the same bearing Sessions Case No.953/2025 pending before the District

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Judge – 18 and Additional Sessions Judge, Nagpur, is hereby quashed and set aside to the extent of present applicant.

(iii) The criminal prosecution of the offence punishable under Sections 66(1) and 177 of the Motor Vehicles Act, 1988 will continue against the present applicant.

(iv) The Superintendent of Police, Nagpur (Gramin) shall keep the copy of the judgment along with the ACR of non-applicant Nos.2 to 5.

The application is disposed of.

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