



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL)NO.236/2024

1. Mrs. Neha W/o Paras Bais,
Age about 24 years, Occupation -
Education, R/o. Gurunanak Nagar,
House No. 32, Jaripatka, Nagpur,
District : Nagpur
2. Paras S/o Rajkumar Bais,
Aged About 32 years,
Occupation: Business,
R/o. Gurunanak Nagar
House No. 32, Jaripatka,
Nagpur, District : Nagpur

... APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Jaripatka,
District : Nagpur
2. Sau. Jyoti W/o Sunil Israni,
Aged About 43 years,
Occupation : Household,
R/o. Plot No. 12, Gurunanak Nagar,
Near Nirankari Bhavan, Jaripatka,
Nagpur, District : Nagpur

...NON-APPLICANTS

Shri. S.R. Kadam, Advocate for applicants
Shri. M.J. Khan, APP for non-applicant No.1/State
Shri. D.S. Jagyasi, Advocate for non-applicant No.2

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.**
DATED : 11.09.2025

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

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

2. Present application is preferred by the applicants for quashing of the First Information Report No.0864/2023, dated 13.11.2023, registered with Jaripatka Police Station, Nagpur, for the offences punishable under Sections 294, 323, 504 and 506(2) read with 34 of the Indian Penal Code.

3. The brief facts which are necessary for the disposal of the application are as under:

The complainant lodged a report on 13.11.2023, alleging that on the date of incident i.e. on 13.11.2023, the applicants came near the house of the complainant and started abusing her in a filthy language on the pretext that the complainant wanted to grab the land i.e. the land of the applicant No.1's mother.

It is further alleged that the complainant and her mother were also assaulted by the present applicants and they were threatened to face the dire consequences. On the basis of the said report, the police have registered the crime.

4. Heard learned Counsel for the applicants who submitted that there is a previous enmity between the complainant and the present applicants out of previous enmity involved, the complainant who was the aggressor came in front of the house of the present applicants and raised the quarrel. Regarding the said incident, the applicants have already lodged the report which is registered under Section 323, 506 of the Indian Penal Code which is the N.C. report. The N.C. report filed by the present applicants are prior in time and to give counterblast to the said complaint, this false report is lodged by the complainant. He further submitted that as far as the application of Section 294 of the Indian Penal Code are concerned, which are not made out as from the recitals of the First Information Report, nowhere it reveals that the said abuses were uttered and attracted any sexual behaviour on the part of the present applicants. In support of his contention he placed reliance on the

decision of the Hon'ble Apex Court in the case of ***Apoorva Arora and anr. Etc. Vs. State (Govt. Of NCT of Delhi) and anr. in SLP (CRL.) NO(S). 5463-5464/2023***. He submitted that in the said decision, the Hon'ble Apex Court has considered the entire aspects of the applicability of the provision of Section 294 and the interpretation of the word 'obscene'. He submitted that as far as the offence under Section 506 is concerned, which is also not made out, and therefore, the application deserves to be allowed.

5. Learned Additional Public Prosecutor and learned Counsel for non-applicant No.2, strongly opposed the said application, on the ground that the recitals of the First Information Report as well as the statements of the witnesses discloses that the complainant and other prosecution witnesses are threatened to such an extent to face the dire consequences. He taken us through the entire investigation papers and submitted that as far as the offence under Section 506-B is concerned, which is made out against the present applicant. He further submitted that the concept of the obscenity differs from person to person depending on the standards of modus of the societies wherein they are residing. He further submitted that if a

reference to a sex by itself is considered obscene, then the act of the present applicant covers under the obscenity. In view of that the *prima facie* case is made out, and therefore, the application deserves to be rejected.

6. On hearing both the sides and on perusal of the recitals of the First Information Report and the various statements of the witnesses, which shows that there was a previous enmity between the present applicants and the informant. The lodging of the N.C. report by the present applicants also discloses that some incident has taken place on 13.11.2023. The statement of the witnesses specifically shows that they were threatened to such an extent to face the dire consequences, and therefore, Section 506 of Indian Penal Code is attracted. Section 506 of the IPC and Section of BNSS 351(3) covers the aspect which states that “*whoever commits the offence of criminal intimidation by threatening to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death, or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with*

imprisonment of either description for a term which may extend to seven years or with fine, or with both.” The statement of the witnesses specifically shows that the present applicants have committed the act by abusing them and threatening them that they would be killed or they have to face the dire consequences if the property was not handed over to them. Thus, considering the statements made by informant and the other witnesses, the application of Section 506 is made out against the present applicant.

7. Now coming to the aspect of the obscenity, Section 292 defines ‘obscene’ as a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object that is lascivious, appeals to the prurient interest, or has such effect, if taken as a whole, that tends to deprave and corrupt persons who are likely to read, see or hear the matter contained in it. The Hon’ble Apex Court in judgment of ***Apoorva Arora and another etc. (supra)***, dealt with the concept of obscenity in detail and observed by referring various judgments that test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and

corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall ... it is quite certain that it would suggest to the minds of the young of either sex, or even to persons of more advanced years, thoughts of a most impure and libidinous character.” It is further held that “the words are vulgar and create a feeling of disgust and revulsion and may shock the reader but this does not necessarily amount to obscenity, which is the tendency to deprave and corrupt. It held that the use of slang and unconventional words; an emphasis on sex; a description of female bodies; and narrations of feelings, thoughts and actions in vulgar language in the novel do not render the material obscene.

8. In the light of the above observations, the abuses which are uttered by the present applicants are considered, admittedly, it would not cover under the definition of the obscenity which is determined by the Hon’ble Apex Court. In view of that as far as the offence under Section 294 of the IPC is concerned, which is not made out. Therefore, the application is allowed to the extent of the application of 294 of the IPC is concerned. In view of that we proceed to pass the following order:

ORDER

- i) The application is partly allowed.
- ii) The First Information Report bearing No.0864/2023, registered with Jaripatka Police Station, Nagpur, is quashed to the extent of the application of 294 of the Indian Penal Code, is concerned, for the rest of the provisions, the trial will be continued.

The application is disposed of.

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

Jayashree..