



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

CRIMINAL APPLICATION (APL) No.1745 OF 2024

1. Santosh s/o. Jagannath Nale,  
Age – 54 years,  
Occupation : Service,  
R/o. 3/A, Street 8, Sector 5,  
Bhilai -1, Durg, Chhattisgarh.
  
2. Punam Santosh Nale w/o. Nikhil Zope,  
Age – 27 years,  
Occupation : Housewife,  
R/o. House No.8022, Ward No.2,  
Wanadongri, Tah. Hingha, Distt. Nagpur.
  
3. Vandana Santosh Nale,  
Aged 49 yrs. old,  
Occupation : Housewife,  
R/o. House No.8022,  
Ward No.2, Wanadongri,  
Tah. Hingha, Distt. Nagpur. : APPLICANTS

...VERSUS...

1. The State of Maharashtra,  
Through Police Station Officer,  
Police Station Koradi, Nagpur.
  
2. Akanksha Kapil, Zope,  
Age – 27,  
Occupation : Housewife,  
R/o. Varangaon Bhusawal,  
Distt. Jalgaon, Po. st, Varangaon. : NON-APPLICANTS

=====

Mr. A.P Vyas, Advocate for Applicants.  
Mr. M.J. Khan, Additional Public Prosecutor for Non-applicant No.1.  
Mr. S.V. Sirpurkar, Advocate for Non-applicant No.2.

=====

**CORAM** : **URMILA JOSHI-PHALKE AND**  
**NANDESH S. DESHPANDE, JJ.**  
**RESERVED ON** : **19<sup>th</sup> SEPTEMBER, 2025.**  
**PRONOUNCED ON** : **26<sup>th</sup> SEPTEMBER, 2025.**

**JUDGMENT** : (Per : Nandesh S. Deshpande)

1. Heard. Admit. Heard finally by consent of learned counsel appearing for the parties.

2. This application is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing the First Information Report bearing Crime No.0266/2022, registered by the non-applicant No.1 on 15.9.2022 at the instance of complaint lodged by non-applicant No.2 for the offences punishable under Sections 354, 392, 504, 506 and 34 of the Indian Penal Code and further for quashing of charge-sheet bearing No.59/2024, dated 22.4.2024 arising out of said F.I.R.

3. The applicant No.2 is the daughter of applicant Nos.1 and 3 and she is wife of one Nikhil Zope is the brother in law of non-applicant No.2. Thus, the parties to the dispute are closely related to each other. In the F.I.R. in question the non-applicant No.2 i.e. the original complainant has stated that on 14.9.2022 she accompanied by her son and in-laws arrived at matrimonial home of applicant No.2 at KTPS Colony, Koradi at Nagpur at about 2.30

p.m. It is stated that since the non-applicant No.2 was not present and was along with her parents at her matrimonial home at Hingna, the applicant No.2 called her and informed her that they are at Koradi. The applicant No.2 along with her parents i.e. applicant Nos.1 and 3 along with two unknown individuals reached Koradi at about 6.30 p.m. It is further stated in the F.I.R. that when non-applicant No.2 opened the door for the applicants, the said two unknown individuals snatched a gold chain worth Rs.30,000/- from her and left. It is further stated that the applicant No.1 grabbed the gown of non-applicant No.2 while applicant Nos.2 and 3 held her hands. During this incident the hand of applicant No.1 was touching the chest of non-applicant No.2. All the applicants were abusing her in filthy language.

4. It is further stated after some time the non-applicant No.2's inlaws and brother in law along with few neighbours came on the site of the alleged incident. The non-applicant No.2 called her husband and narrated the incident to him. It is further stated that thus the applicants have committed offences punishable under Sections mentioned supra. It is this F.I.R. and the consequent charge-sheet which is challenged in the present application.

5. Heard Mr. A.P. Vyas, learned counsel for the applicants, Mr. M.j. Khan, learned Additional Public Prosecutor for the non-

applicant No.1 and Mr. S.V. Sirpurkar, learned counsel for the non-applicant No.2/original complainant.

6. Mr. A.P. Vyas, learned counsel for the applicants submitted that filing of F.I.R. is by way of and after thought and abuse of process of law. He invites our attention to F.I.R. bearing No.0223/2024, dated 19.7.2024 filed by the applicant No.2 against non-applicant No.2 along with various persons. This was with respect to offences punishable under Sections 498-A, 323, 504 of the Indian Penal Code. This F.I.R. was preceded by the complaint filed by the applicant No.2 with Bharosa Cell on 15.9.2022 which is filed on record as Annexure-B. It is further submission of the learned counsel for the applicant that thus the F.I.R. under challenge is filed counter blast to the complaint filed by the applicant No.2 against the complainant i.e. non-applicant No.2. It is thus submitted that no offence is made out even if the allegations in the F.I.R. are taken at their face value.

7. Per contra, Mr. M.J. Khan, learned Additional Public Prosecutor for non-applicant No.1 vehemently opposed the submission of the counsel for the applicants and states that the Investigation Agency has collected ample material against the present applicants which prima facie shows their involvement in the commission of crime. He further states that the materials

collected by the non-applicant No.1 clearly show involvement of the present applicants in the crime.

8. Mr. S.V. Sirpurkar, learned counsel for non-applicant No.2 also supports the learned Additional Public Prosecutor and prays for dismissal of the application.

9. In the light of these averments and the material available on record, we have perused the charge-sheet along with statements of witnesses recorded by the Investigating Agency, in the backdrop of these facts.

10. As can be seen from the F.I.R. in question that it alleges commission of offence under various sections mentioned supra. Section 354 which speaks about assault or criminal force to woman with intend to outrage her modesty. As far as this section is concerned the only allegations seems to be that the hand of applicant No.1 was touching the chest of the non-applicant No.2. Even if this allegation is taken on its face value, there is no intention attributed to the applicant No.1/Santosh. In our view, therefore, offence under Section 354 is not made out.

11. As far as offence under Section 392 is concerned, it speaks about punishment for robbery and contemplates punishment as provided under the said Section. Offence of robbery is attributed to those two unknown persons who, according to non-

applicant No.2, snatched the gold chain. It is, however, noteworthy to mention that the panchanama done on 15.3.2024 in presence of two panchas clearly states that said golden chain was not found at the house of applicant No.2. Furthermore, offences under Section 504 is also not made out since there is no intentional insult to provoke the breach of peace. As far as offence under Section 506 i.e. criminal intimidation is concerned the F.I.R. in question does not also make out a case for punishment since it contemplates threatening another with any injury to his person, reputation or property with an intent to cause alarm to that person. The contents of F.I.R. in question at least prima facie do not make out a case for trial as the ingredients of offences complained of are not made out.

12. In our view, therefore, the situation would be directly covered by the well-known parameters of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in **MANU/SC/0115/1992** and more particularly para 105, sub-para (1),(3) and (5) re-produced as under :

*“(1) 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.*

*(3) 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.*

*(5) 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.”*

13. It would be, therefore, fit case to exercise inherent powers under Section 482 of the Criminal Procedure Code as continuance of trial against the applicants would amount to abuse of the process of Court. Hence, we proceed to pass following order :

**ORDER**

(i) The application is allowed.

(ii) We quash and set aside the First Information Report bearing Crime No.0266/2022, registered by the non-applicant No.1 on 15.9.2022, for the offences punishable under Sections 354, 392, 504, 506 and 34 of the Indian Penal Code and the consequent charge-sheet bearing No.59/2024, dated 22.4.2024.

(iii) The Application is disposed of accordingly.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)