



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

CRIMINAL WRIT PETITION NO. 77 OF 2025

Abhay s/o. Bhimsingh Chandel,
Age – 49 years, Occupation – Service,
R/o. Vistapur, Tq. Chikhaldara and
District Amravati.

... PETITIONER

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Chikhaldara,
District – Amravati.
2. Rekha Ramu Jamunkar,
Age - 40 years, Occupation – Housewife,
R/o. Khongda, Tq. Chikhaldara and
District Amravati.

... RESPONDENTS

Mr. R. R. Vyas, Advocate for the Petitioner.
Mr. Nitin Autkar, A.P.P. for Respondent No.1/State.
Ms Aastha Sharma h/f. Mr. P.R. Agrawal, Advocate for Respondent No.2.

CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.
JUDGMENT RESERVED ON : 21.04.2025
JUDGMENT PRONOUNCED ON : 02.05.2025

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.
2. This petition is filed by the petitioner for quashing of the Final/Charge-sheet Report arising out of the First Information Report 169/2023 registered with Police Station Chikhaldara, District Amravati

for the offences punishable under Sections 294, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The petitioner is a Range Forest Officer stationed at Chikhaldara. The criminal law is set into motion against the present petitioner along with one against whom the action taken is dropped during the investigation alleging commission of offence under Sections 294, 504 and 506 of the Indian Penal Code. The offence bearing Crime No.169/2023 was registered on 12.08.2023 against the petitioner.

4. It is alleged that on 11.08.2023, the complainant along with others were present at a common location in village Khongda to collect the food grains distributed therein. The Forest Officer Priti Asolkar along with other officials visited the said spot. They enquired with the persons who had gathered there about the hunting incident which had taken place a month ago in the vicinity regarding a Sambar deer and they informed that they wanted to inquire from 20 persons from the said village and accordingly, issue notice to the said 20 persons. The persons who were gathered there had resisted the same and assaulted the forest officials. During that period, some abusive language was used by the forest officials to the villagers and allegedly clothes of the villagers were torn. The complainant has lodged the complaint and the crime is registered. After investigation, the charge-sheet bearing No.10/2023 was filed against this petitioner before the Judicial Magistrate First Class,

Achalpur and later it was pending before the Gram Nyayalaya, Chikhaldara, which was registered as a Summary Criminal Case No.269/2024.

5. As the petitioner was on official duty and the villagers who are the complainants in the said offence, the petitioner has also lodged the complaint against them vide First Information No.168/2023 on 11.08.2023. The First Information Report lodged by the petitioner was first in time as compare to the other F.I.R.. The petitioner was discharging his official duty and the villagers obstructed the petitioner while discharging the duty, the offence under Sections 353, 332, 143, 147, 148, 336, 427, 504 and 506 of the Indian Penal Code is registered against the villagers.

6. It is the contention of the petitioner that on 03.01.2025, the petitioner appeared in the Summary Criminal Case and on the same day, charge was framed (plea was recorded) without giving an opportunity to prefer any discharge application.

7. It is submitted by the learned Counsel for the petitioner that, the petitioner was on official duty. He was discharging official duty and therefore, it was mandatory to obtain sanction under the provisions of the Code of Criminal Procedure. In absence of sanction, cognizance could not have been taken by the Trial Court. Hence, he has prayed to quash

the charge-sheet and the First Information Report registered against the petitioner.

8. The learned A.P.P. opposed the petition stating that there is *prima facie* involvement of the petitioner which can be seen from the investigation carried out. A fair opportunity needs to be given to the prosecution to prove the prosecution case by conducting the full-fledged trial. As the petitioner has failed to make out *prima facie* case for quashing of the Final Report/Charge-sheet arising out of the First Information Report No.169/2023, he prayed to dismiss the petition.

9. Heard both the learned Counsel for the parties.

10. It is not disputed that the petitioner is a Range Forest Officer and he went on the spot to discharge his official duty. The Range Forest Officer comes within the definition of 'Public Servant' as prescribed under Section 21 of the Indian Penal Code. It is settled position of law that in order to prosecute a public servant, sanction under Section 197 of the Criminal Procedure Code is necessary which is not obtained, which makes the criminal prosecution against the petitioner unsustainable as it goes to the root of the matter.

11. The petitioner has relied on the judgment of the Hon'ble Apex Court in the case of ***D. Devaraja Vs. Owais Sabeer Hussain*** reported

in **(2020) 7 SCC 695**, wherein it is held in para Nos.65, 69 and 70 as under :

“65. The law relating to the requirement of sanction to entertain and/or take cognizance of an offence, allegedly committed by a police officer under Section 197 of the Code of Criminal Procedure read with Section 170 of the Karnataka Police Act, is well settled by this Court, inter alia by its decisions referred to above.

69. The language and tenor of Section 197 of the Code of Criminal Procedure and Section 170 of the Karnataka Police Act makes it absolutely clear that sanction is required not only for acts done in discharge of official duty, it is also required for an act purported to be done in discharge of official duty and/or act done under colour of or in excess of such duty or authority.

70. To decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty. In the case of an act of a policeman or any other public servant unconnected with the official duty there can be no question of sanction. However, if the act alleged against a policeman is reasonably connected with discharge of his official duty, it does not matter if the policeman has exceeded the scope of his powers and/or acted beyond the four corners of law.”

He has also relied on the judgement of ***State of Maharashtra and Ors. Vs. Tukaram Yashwant Dindorle [Writ Petition No.1400/1992]*** reported in ***2000(1) Mh.L.J. 388***.

12. We therefore, agree with the submissions made by the learned Counsel for the petitioner that without sanction, the Officer who was discharging the official duty cannot be prosecuted. Moreover, the First Information Report lodged by the petitioner is registered at an earlier point of time.

13. On perusal of the First Information Report, it appears that the offence under Sections 294, 504, 506 read with Section 34 is registered against the present petitioner. The words which are allegedly used by the petitioner is the only allegation against the petitioner. The other allegations in complaint are against the lady officer against whom the action is dropped during the investigation. As the offence under Section 294 is registered, it is observed by the Hon'ble Apex Court in the judgment of ***Manik Taneja and Anr. Vs. State of Karnataka and Anr.*** reported in ***(2015) 7 SCC 423*** as under :

"8. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made, prima facie, establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit the prosecution to continue. Where, in the opinion of the Court, the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may quash the proceeding even though it may be at a preliminary stage.

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

A reading of the definition of "criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty."

14. Considering the allegations made in the First Information Report and the role played by this petitioner, no offence under Sections 294, 504 and 506 is made out against this petitioner. Moreover, sanction is not taken before registration of the crime. Hence, this is a fit case where we can exercise our extraordinary constitutional jurisdiction to quash and set aside the First Information Report and charge-sheet filed against the petitioner.

15. Hence, the petition is allowed.

16. We hereby quash and set aside the Final Report/Charge-sheet arising out of First Information Report bearing No.169/2023 registered with Chikhaldara Police Station, District Amravati for the offence punishable under Sections 294, 504 and 506 of the Indian Penal Code along with related S.C.C.No.269/2024 pending before Gram Nyayalaya, Chikhaldara.

17. Rule is made absolute in aforesaid terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)