



Judgment

502 apl209.25

1

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

CRIMINAL APPLICATION (APL) NO.209 OF 2025

Sudhir Kumar s/o Vitthalrao Kavar, aged 35
years, occupation: agriculturist, r/o Washim (Rural)
tahsil and district Washim. **Applicant.**

:: V E R S U S ::

1. The State of Maharashtra, through its
Police Station Officer, Police Station Washim
(Rural), tahsil and district Washim.

2. Ku.Kalpana Ramdas Ugle, aged 50 years,
occupation: service, r/o c/o Deputy
Superintendent Copying, Office of Land
Records, Washim, Washim Gramin, Washim,
State of Maharashtra-444 505. **Non-applicants.**

Shri A.M.Ghare, Counsel for the Applicant.
Shri Nikhil Joshi, Addl.PP for the NA No.1/State.
Shri Mohd.Rehan, Counsel for NA No.2.

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

CLOSED ON : 19/11/2025
PRONOUNCED ON : 26/11/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

2

1. By this application, the applicant is seeking quashment of FIR in connection with Crime No.0019/2025 registered under Sections 132, 351(1), 351(2), and 352 of the BNS, 2023 and consequent proceeding arising out of the same bearing chargesheet No.19/2005.

2. As per the contentions of the applicant, he is arraigned as accused on the basis of report lodged by non-applicant No.2 - Kalpana Ugle working as Clerk in the office of the Deputy Director of Land Records at Washim and dealing with applications for measurement. The applicant has filed an application for measurement on 16.12.2024. Due to the other work, she could not complete the work of measurement. On 22.1.2025, she went in agricultural filed of the applicant along with a Peon Pandurang Lokhande started the work of measurement. At the relevant time, the applicant

3

restrained her by saying that measurement is already done and why she is there and abused her in a filthy language. On the basis of the said report, the police registered the crime against the applicant.

3. Heard learned counsel Shri A.M.Ghare for the applicant, learned Additional Public Prosecutor Shri Nikhil Joshi for the State, and learned counsel Shri Mohd.Rehan for the non-applicant No.2 (the informant).

4. Learned counsel for the applicant submitted that as far as Section 132 of the BNS is concerned, the said Section deals with assault or criminal force to deter public servants from discharging his duty. The ingredients of the offence suggest that a person who assaults or uses criminal force to any person being a public servant in execution of his duty or prevents to deter that person from discharging duty as such, the public servant or in consequent of anything done or attempted to be done by

4

such person in the lawful discharge of his duty, then he commits the offence under Section 132 of the BNS. He also invited our attention to definition of criminal force given under Section 129 of the BNS and definition of assault given under Section 132 of the BNS. He submitted that even taking the allegations as it is at its face value, except vague allegation that the applicant has abused the informant, no specific act is attributed to the applicant to show that in what manner, he has deterred her from discharging her duties as public servant. Thus, the offences under Sections 132, 351(1), 351(2) and 352 of the BNS are not made out. The applicant is implicated in the alleged offence due to the political rivalry. In view of that, the application deserves to be allowed.

5. *Per contra*, learned Additional Public Prosecutor for the State opposed the said contentions and submitted that considering the allegations that the applicant has

5

deterred the public servant by abusing the informant and restraining her from discharging her public duties, it is sufficient to attract the offence. There is sufficient material to frame the charge against the application. In view of that, the application deserves to be rejected.

6. On hearing learned counsel for the parties and perusing the FIR, in the light of the observations of the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read 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

6

any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) 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;

7

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) 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;

(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

8

there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. Recital of the FIR shows that the allegations made against the applicant are that he has abused the informant and deterred her from discharging her duties as public servant. Admittedly, the informant has not narrated exact act of the applicant by which he has restrained her from discharging her duties as public servant. She has also not specifically narrated about the abuses used by the applicant.

8. It seems that prior to this report, the applicant has filed one application against the informant to her superior on 22.1.2025 as to her misconduct and, therefore, the present report came to be lodged.

9. The statement of Peon Pandurang Lokhande is also recorded by the investigating officer, which also not discloses that any criminal force is used by the applicant to deter the informant from discharging her duties as public servant.

10. The definition of “criminal force” is given under Section 129 of the BNS which states 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 use criminal force to other.

10

11. The definition of “assault” is given under Section 130 of the BNS which states 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.

Explanation thereto itself shows that mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

12. Thus, mere words do not amount to assault.

13. In the present case, vague allegations are made by the informant that some abuses were used by the applicant to deter her from discharging her public duties.

11

If the said allegation is taken into consideration, in the light of the definition of assault, admittedly, no *prima facie* case is made out against the applicant.

14. The statement of the informant or the statement of Peon Pandurang Lokhande, who was along with her, nowhere states that threat was given by the applicant to cause criminal intimidation or there is no allegation that she was threatened to the extent that there was an apprehension of any injury to her person or reputation or property and thereby committed the offence of criminal intimidation.

15. Thus, neither the offences under Section 351(1) and 351(2) of the BNS nor under Section 352 of the BNS are made out against the applicant.

16. As already observed, the offence under Section 132 of the BNS, regarding use of criminal force on public

12

servant, while discharging official duties, itself is not made out and, therefore, the application deserves to be allowed.

Accordingly, we proceed to pass following order:

ORDER

(1) The Criminal Application is **allowed**.

(2) FIR in connection with Crime No.0019/2025 registered under Sections 132, 351(1), 351(2), and 352 of the BNS, 2023 and consequent proceeding arising out of the same bearing chargesheet No.19/2005 are hereby quashed and set aside.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

...../-