



**pIN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (APL) NO. 561 OF 2025

Sunil s/o Vilas Ambhore
Aged about : 25 Years, Occu : Education;
R/o Gayatri Nagar, Jagnade Square,
Nagpur-440009.

... **APPLICANT**

V E R S U S

State of Maharashtra, Through Police
Station Officer, Police Station, Murtijapur,
Tahsil Murtizapur, District Akola.

... **RESPONDENT**

Ms. Payal S. Kaware, Advocate for Applicant.
Ms. Shamsi Haider, APP for Respondent/State.

**CORAM : URMILA JOSHI-PHALKE AND
PRAVIN S. PATIL, JJ.**

DATE : DECEMBER 04, 2025

ORAL JUDGMENT

. **Rule.** Rule made returnable forthwith. Heard finally by consent of
learned Counsel appearing for the parties.

2. Present Application is preferred by the Applicant for quashing of
the First Information Report in connection with Crime No. 152/2025
registered with Police Station, Murtizapur, District Akola for the offence under
Section 194(2) of Bhartiya Nyaya Sanhita, 2023 (*for short, 'the BNS'*).

3. The Applicant is arraigned as an accused on the basis of report lodged by the Police Constable Dnyaneshwar Mahadeo Rane on an allegation that one Akash Rama Ambhore and Rushali Akash Ambhore wanted to perform puja in Durga Mata Mandir. However, because of the intercaste marriage, both of them are facing threat to their lives. Therefore, they sought police protection. Accordingly, both of them are under the police protection. At that time the relatives of Ambhore family were present in Durga Mata Mandir and the dispute about the management of Durga Mata Mandir is also going on and the matter is subjudice in the Court.

4. The persons present at Durga Mata Mandir were shouting on each other. One Vilas Ambhore was taking video in his mobile, at that time Suresh Ambhore has confronted Vilas Ambhore as to why he is recording the incident and assaulted Vilas with fist blow. Thereafter Vilas along with the other accused persons namely, Kiran, Maheshkumar, Rahul, Suresh have started assaulting Sunil with fist and kick blows. In that scuffle Suresh and Maheshkumar were also injured. With the interference of the police staff, the injured was taken to the hospital. As the accused persons have disturbed the peace and order of the locality, the First Information Report came to be lodged against the present Applicant and the other co-accused.

5. Heard learned Counsel for the Applicant, who submitted that from the recitals of the First Information Report, no specific role is attributed to the present Applicant. On the contrary, present Applicant was assaulted by the prosecution witnesses and he had sustained the injuries. The recitals of the First Information Report also shows that it was the present Applicant who has assaulted by the prosecution witnesses, therefore, no *prima facie* case is made out against the present Applicant.

6. As far as the ingredients of the offence punishable under Section 194(2) of BNS are concerned, the Informant is a Police Constable who has interfered with the scuffle of two groups, which took place in front of Durga Mata Mandir. The Applicant was involved in fighting with the other persons. Immediately the Informant and the other staff of the Police have been intervened and pacified the same. It also reveals that the present Applicant has also received the injuries as he was also assaulted. Therefore, two ingredients of Section 194(2) of BNS are required to be satisfied that there were more than two persons and there was fighting in the public place. However, the third ingredient of Section 194(2) of BNS is absent, as it can be gathered from the material placed before us, and therefore, it cannot be said that the Applicant has committed offence of affray.

7. The decision of the Hon'ble Apex Court in the case of ***Mahant Kaushalya Das V/s State of Madras, AIR 1966 SC 22***, wherein it is held as under :

“6.....mere causing public inconvenience is not sufficient. Here there are no statements of persons from the public to see even prima facie, as to whether the public peace was disturbed. Furthermore, the use of the word fighting will not be sufficient as in the present case the word used is ‘Maramari’. The said fighting should be as a result of use of force and further it can be considered that neither in the FIR nor in the statements under Section 161 of the Code of Criminal Procedure or even by the Investigating Officer, it was tried to extract as to what was the point/reason, on which those persons were fighting. It also appears that though four persons were taken in custody, they were not taken for medical examination in order to see as to whether the said fighting has caused any kind of hurt to any one of them or all of them.”

8. Present case is also identical. The entire record does not show that there was disturbance to the public peace. The statements of the public are also not recorded. The contents of the First Information Report as well as the statements of the witnesses which are required during the investigation as the material in the investigation papers depicts that the material is not sufficient to attract the ingredients of offence punishable under Section 194(2) of BNS, and therefore, the offence is not made out.

9. The law laid down in the case of ***State of Haryana V/s Bhajan Lal, AIR 1992 SC 604***, wherein seven parameters have been laid down, but the

present case would fall in one of the categories i.e. Clause (a) of paragraph 8.1, which reads 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 any offence or make out a case against the accused.”

10. Therefore, considering the above facts and circumstances, a case is made out to quash and set aside the First Information Report. Hence, we proceed to pass following order.

ORDER

1. Criminal Application is allowed.
2. The First Information Report in connection with Crime No. 152/2025 registered with Police Station, Murtizapur, District Akola for the offence under Section 194(2) of Bhartiya Nyaya Sanhita, 2023 is hereby quashed and set aside.
3. Rule is made absolute in the abovesaid terms.
4. No order as to costs.

[PRAVIN S. PATIL, J.]

[URMILA JOSHI-PHALKE]