



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

CRIMINAL APPLICATION (APL) No.614 OF 2025

1. Abhay Sharad Talhan,
Age 50 years,
Occu : Service [RFO Hingni]
R/o. Hingni, Tq. Salu, District Wardha.
 2. Anil Gajanan Kale,
Aged 35 years,
Occu. Service Forest Guard,
R/o. Selu, Tq. Salu,
District Wardha.
 3. Govindrao Bapurao Chandrawanshi,
Aged 52 years,
Occu. Service Forest Guard,
R/o. Selu, Tq. Salu District Wardha.
 4. Durgadas Dadarao Ambhore,
Aged 36 years,
Occu. Service Forest Guard,
R/o. Selu, Tq. Salu District Wrdha.
- : APPLICANTS

...VERSUS...

1. The State of Maharashtra,
through Police Station Officer,
Kharangana,
Tq. Arvi, District Wardha.
 2. Narayan Gomaji Kaurati,
Aged about 65 years,
Occu. Agriculturist,
R/o. Borgaon [Gondi],
Tq. and District Wardha.
- : RESPONDENTS

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Mr. Abhay sambre, Advocate for Applicants.
Ms. Shamsi Haider, Additional Public Prosecutor for Non-applicant No.1.
Mr. Prakash Meghe, Advocate for Non-applicant No.2.

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CORAM : **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.
RESERVED ON : **07th OCTOBER, 2025.**
PRONOUNCED ON : **17th OCTOBER, 2025.**

JUDGMENT : (Per : Nandesh S. Deshpande, J.)

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

2. The applicants have approached this Court by filing the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, for quashing the First Information Report in connection with Crime No.187/2025, dated 15.03.2025 registered with Police Station Kharangana, District Wardha, for offences punishable under Sections 118(1), 115(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023. The applicants have further prayed for quashing of the Charge-sheet bearing No.21/2025 dated 24.04.2025, which is pending before the learned Judicial Magistrate First Class, Arvi, District Wardha.

3. It is the case of respondent No. 2, as per the averments made in the First Information Report, that he is an agriculturist possessing agricultural land situated at Borgaon, Gond. On 14.03.2025, while the respondent No. 2 was resting under a guava tree in his agricultural field, one officer of the Forest Department, namely Abhay Talhan, accompanied by three other Foresters, called

the respondent No. 2 and inquired whether he had set the forest on fire. The respondent No. 2 denied the said allegation. It is further alleged that one of the said persons handed over a stick to the said officer, Abhay Talhan, who thereafter started assaulting respondent No. 2 on his feet, back, and head. It is further alleged that the applicants forcibly pushed the respondent No. 2 inside their vehicle and, while driving through Dhanoli Jungle, repeatedly questioned him regarding the said forest fire. It is further stated that at about 6:30 p.m., the applicants brought respondent No. 2 back to his village, Borgaon (Gondi). It is also alleged in the Report that all four Applicants were under the influence of alcohol at the time of the incident. Accordingly, an F.I.R. was lodged by respondent No.2 which is challenged in the present application.

4. We have heard Mr Abhay Sambre, learned counsel for the applicants, Ms. Shamsi Haider, learned Additional Public Prosecutor for non-applicant No.1/State and Mr. Prakash Meghe, learned counsel for non-applicant No.2.

5. Learned Counsel for the applicant states that meaningful reading of the First Information Report would reveal that no offence is made out under Sections 118(1), 115(2), 3(5) of Bhartiya Nyaya Sanhita 2023, particularly noting that, the applicants are having very clean past record and were never

involved in any criminal case, no adverse remark or department enquiry is held against all the applicants. It is submitted that applicants are working hard to protect the forest from various illegal activities, such as poaching, fire protection, awareness campaigns, etc. Also, every year, fire protection plans of each division are published by the head of the forest department to prevent fire and protect the forest. It is submitted that there was no question of any assault on the respondent No. 2 by the applicants, but since the respondent No. 2 was apprehensive that the applicants would implicate him in the forest burning case, the Respondent No.2 falsely decided to name the applicants and further prepared an afterthought concocted story to support his claim. It is further submitted that the Charge-sheet clearly demonstrates that there is not a single witness who has stated about the involvement of present applicant in the instant crime, except baseless statement of the complainant. It is further submitted that even the complaint lodged by the non-applicant No.2, if perused in its entirety, does not make out a case for an offence punishable under various sections.

6. Learned Counsel for the applicants highlights that the medical report shows that the applicants were not under the influence of liquor. It is submitted that, if the size of the said stick

is pursued, it shows that the injuries are not possible by the said small stick. It is further submitted by the learned counsel for the applicants that the police, in collusion with the respondent No. 2, wrongly invoked Sections 118(1) and 115(2) of the Bharatiya Nyaya Sanhita, 2023 despite the minor nature of the injuries and the small stick allegedly used. Even if the contents of First Information Report and Charge-sheet are assumed to be true, no cognizable offence is made against the applicant.

7. On the other hand, the learned Additional Public Prosecutor for the non-applicant No.1 vehemently opposed the submissions of the counsel for the applicants. He states that, respondent No.2 was assaulted by the applicants by means of a wooden stick and also by fist and blows on the pretext that the respondent No.2 set fire to the forest. It is further submitted by the learned Additional Public Prosecutor that the seized stick was confirmed by the medical officer as capable of causing injury. Based on the collected evidence and witnesses, the police filed a charge-sheet showing prima facie involvement of the applicants, and thus, no ground exists for quashing the First Information Report or charge-sheet.

8. In the backdrop of these submissions, we have perused the First Information Report and the consequent charge-sheet. As

can be seen from the said charge-sheet.

9. We have perused the First Information Report as also the Charge-sheet which is filed on record. The allegations against the applicants seems to be that they have committed an offence under Sections 118(1), 115(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023. However, the contents of the First Information Report as also the charge-sheet indicate that no grievous hurt is caused since the injury report filed along with the charge-sheet only states that there is swelling. Furthermore, meaningful reading of the charge-sheet and the F.I.R. would reveal that the applicants were performing their official duty and as a part of their official duty tried to extinguish the fire which they saw adjacent to the field of the complainant. Furthermore, as can be seen from the oral report of the respondent No.2 it can be clearly gathered that he does not know and identify the applicants. He further states that he does not know them by name.

10. Furthermore, there is not even a single witness who has stated about the involvement of the present applicants in the instant crime except the complainant. Furthermore, since the applicants are the Government servants, sanction needs to be obtained under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (Old Section 197 of the Criminal Procedure Code),

Even for want of sanction the criminal proceeding cannot continue. As stated above, the injury report shows only a swelling and, therefore, falsifies the case of the complainant. It is also an admitted fact on record that the officials were performing their official duties and there is no sanction to prosecute them as required under Section 218 of the Bharatiya Nagarik Suraksha Sanhita 2023.

11. In that view of the matter, the case squarely fall within well laid down parameters of the judgment in the case of State of Haryana and others Vs. Bhajan Lal and others, reported in MANU/SC/0115/1992 a case would squarely fall in parameter 1,3 and 5, which are reproduced 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.

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

12. We, therefore, proceed to pass following order :

ORDER

(i) The application is allowed.

(ii) The Charge-sheet No.21/2025, dated 24.4.2025 filed by the respondent No.1 before the Judicial Magistrate First Class, Arvi, District Wardha in First Information Report in connection with Crime No.187/2025, dated 15.03.2025, registered with Police Station Kharangana, District Wardha, for offences punishable under Sections 118(1), 115(2) and 3(5) of the Bhartiya Nyaya Sanhita, 2023 is hereby quashed and set aside.

(iii) The application is disposed of.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)