



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

CRIMINAL APPLICATION (APL) NO.626/2025

Kailashchandra s/o Madanlal Joshi

Aged about 62 years,

Occu: Stock Broker,

R/o.6/A, Janak Residency,

Badnera Road, Navi Vasti, Badnera,

Amravati, Tq. & Dist. Amravati.

Mob no.9423124577

... APPLICANT

...VERSUS...

1. State of Maharashtra, Through P.S.O.
Police Station, Badnera,
Tq. And Distt. Amravati.
2. Sharda Shyam Yadav,
Aged about 43 years, Occu: Maid,
R/o. Gokuldham Colony,
Gajanan Nagar, Navi Vasti, Badnera,
Amravati, Tq. & Distt. Amravati.

...NON-APPLICANTS

Shri S.R. Sayare, Advocate for applicant

Shri A.G. Mate, Advocate for the non-applicant/State

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

DATED : 04.12.2025

ORAL JUDGMENT

. Heard. Admit.

2. Heard finally with the consent of the learned Counsel for the parties.

3. The non-applicant No.2 is already served and affidavit of service is filed on record. None appears for the non-applicant No.2

4. Present application is preferred by the applicant, for quashing and setting aside the First Information Report (for short 'FIR') dated 02.12.2022 in connection with Crime No.24/2025 registered with Police Station Badnera, District Amravati under Section 333, 351(2), 352, 74 and 75 of the Bhartiya Nyaya Sanhita, 2023.

5. As per the allegations in the FIR lodged by non-applicant No.2 that present applicant is a Housemaid and works with the applicant/accused as a Cook. She further alleged that when she was working as a Cook with the applicant/accused, for the period from 2014 to 2020 and she was residing alone. He has promised her to transfer a plot in her name, but due to COVID-19

period, same could not be transferred in her name. Therefore, the present applicant executed a will dated 06.01.2021 in the name of non-applicant No.2. On perusal of the said will and after taking permission of the applicant, she started construction over the said plot, situated at Gokuldharm Colony, Navi Vasti, Badnera. Due to the dispute over the said plot between the applicant and non-applicant No.2, on 30.11.2024, the applicant went to the house of non-applicant No.2 at about 6.30 p.m., in the morning and started abusing her in a filthy language. It is further alleged that with an intention to outrage her modesty, he rushed towards concerned and asked her for sexual favour and thereby committed an offence punishable under the above provisions.

6. Heard learned Counsel for the applicant, he submitted that in fact the non-applicant No.2 is a tenant, the applicant has already filed Civil Suit bearing No.101/2024 against her for evicting her from the said suit premises and also claimed a mense profit. The applicant has also lodged various NC reports against the present non-applicant and to give counterblast to the said proceedings, this false FIR is lodged afterthought. He also invited

our attention towards the Criminal Case No.102/2025, which is the application filed by the present applicant before the Chief Judicial Magistrate for seeking direction to register the FIR against the present non-applicant No.2. Regarding the said incident also he has lodged the report.

7. On the contrary, afterthought after approximately, after 1 ½ months, this FIR came to be lodged by the informant with baseless and false allegations. He submitted that considering there was a dispute between the landlord and tenant, this false FIR is lodged. No *prima facie* case is made out. Delay is not explained. For all above these grounds, the application deserves to be allowed.

8. Per contra, learned APP strongly opposed for the said and submitted that considering, the reason mentioned in the FIR, would show that the applicant has committed the offence of house trespass by entering in her house as well as abused her in a filthy language. He submitted that though FIR is lodged belatedly, but considering the dispute between the applicant and non-applicant No.2 and the applicant has outraged her modesty, the application deserves to be rejected.

9. Having heard the learned Counsel for the applicant and learned APP for State, perused the entire record, especially recitals of the FIR and the other documents, which are filed by the applicant from which it reveals that there was dispute between the applicant and non-applicant No.2 regarding the possession of the said plot wherein the non-applicant has allegedly constructed the house. The applicant has already filed a Civil Suit for taking possession of the said property, which is pending before the Trial Court. Regarding the said incident, immediately he has lodged NC report and copy of the same is also on record. The criminal complaint is also filed by the present applicant against the non-applicant seeking directions to register the FIR against her.

10. Thus, it is apparent that due to the dispute which is in civil nature, this FIR came to be lodged against the present applicant. Considering the inordinate delay in lodging the FIR, for which no explanation is putforth by the informant. There is substance in the contention of the learned Counsel for the applicant that afterthought only to give a counterblast to the complaint lodged by the present applicant, this FIR came to be lodged. As far

as the criminal force is concerned from the recitals of the FIR, nowhere it reveals that the present applicant has used any criminal force against the present non-applicant No.2. Thus, no prima faice case is made out against the present applicant.

11. In view of the principles laid down by the Hon'ble Supreme Court in paragraph No. 102 of judgment reported in ***State of Haryana and others Vs. Bhajanlal and others, 1992 Supp (1) SCC 335***, and more particularly Clause 1, 3 and 7 thereof :

"102.....

(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.

(2) ...

(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.

(4)

(5) ...

(6) ...

(7) 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.”

12. In view of above, the principles laid down by the Hon’ble Apex Court, the application deserved to be allowed as no *prima facie* case is made out against the applicant. Therefore, we proceed to pass the following order.

ORDER

(i) The application is **allowed**.

(ii) The First Information Report in connection with Crime No.24/2025 registered with Police Station Badnera, District Amravati under Section 333, 351(2), 352, 74 and 75 of the Bhartiya Nyaya Sanhita, 2023., is hereby quashed and set aside, to the extent of present applicants.

The application is disposed of in above said terms.

(PRAVIN S. PATIL, J.)

(URMILA JOSHI-PHALKE)

R.S. Sahare