



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

CRIMINAL APPLICATION (APL) No.793 OF 2025

Sanjay Bhagwatprasad Agarwal
Aged about 57 years,
Occupation : Business,
R/o. 42, Bajhiprabhunagar, Ram Nagar,
Nagpur. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Imamwada, Police Station,
Nagpur City, Nagpur,
Tq. and Distt. Nagpur.
2. Yogesh Shrikant Tiwari,
Aged about 52 Years,
Occupation : Social worker and
ex-corporator NMC,
R/o. PTS Quarter, Chandan Nagar,
Quarter No.91, PO Imamwada,
Nagpur. : RESPONDENTS

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Mr. Akshay A. Naik, Senior Advocate assisted by Mr. P.K. Mohta,
Advocate for the Applicant.
Mr. M.J. Khan, Addl. Public Prosecutor, Advocate for Respondent
No.1.
Ms. Ritu Ghate, Advocate holding for Mr. S.M. Shrivastava, Advocate for
Respondent No.2.

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CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 09th SEPTEMBER, 2025.
PRONOUNCED ON : 15th SEPTEMBER, 2025.

JUDGMENT : (Per : Nandesh S. Deshpande)

1. Heard.

2. Admit.

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

4. This is an application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for quashing of F.I.R. bearing No.172/2025 dated 21.4.2025, registered with respondent No.1/Imamwada Police Station, Nagpur for the offence punishable under Section 299 of the Bharatiya Nyay Sanhita, 2023. Facts shorn of details can be narrated as under :

5. The respondent No.2/first informant filed an F.I.R. with the respondent No.1 alleging that applicant has committed an offence punishable under Section 299 of the Bhartiya Nyaya Sanhita, 2023 As per the said F.I.R. he installed a flex on 03.04.2025 wishing the public at large, in view of the festival of Ram Navami, Hanuman Jayanti. On 21.04.2025 at about 08.30 p.m. (as per the F.I.R.) the applicant came along with cutter in his hand and cut away the said flex as also the photographs of the first informant and his accomplice namely Sagar Nikam. It was further stated in the F.I.R. that due to said act of the applicant religious feeling of the first informant was hurt and, therefore, he lodged the said F.I.R. Accordingly, an offence was

registered with the non-applicant No.1 and as stated supra the applicant has approached this Court for quashing the same.

6. We have heard Mr. Akshay A. Naik, learned Senior Advocate for the applicant along with Mr. P.K. Mohta and Mr. Shreyas Agrawal. We have also heard Mr. M.J. Khan, learned Additional Public Prosecutor for the respondent No.1 and Ms. Ritu Ghate holding for Mr. S.M. Shrivastava, Advocate for the respondent No.2.

7. Learned Senior Counsel Mr. Akshay Naik submits that the applicant is carrying on his business of selling clothes on the ground floor of Arjun Apartment/Gaikwad Chambers, Unthkhana Chowk, Nagpur. On 03.04.2025 a flex/hoarding on the eve of Ram Navami was installed on disturbing point of pole on the square in front of shop of the applicant. The said hoarding/flex was measuring about 8 ft X 10 ft. The location of the said hoarding was such that it block not only the view of the applicant's shop but also the name-board of the said shop was not visible.

8. He took us through Section 299 of the Bharatiya Nyaya Sanhita, 2023 and stated that the ingredients of offence punishable under the said Section is not made out. He, therefore, submitted that since the F.I.R. in question hopelessly falls short of the ingredients required for making out the said offence, the F.I.R. needs to be quashed.

9. While on the other hand learned Additional Public Prosecutor opposed the contentions and stated that the offence under Section 299 is squarely made out. Learned counsel for respondent No.2, however, on instructions states that she has no objection for quashing of the said F.I.R.

10. In the light of these averments, we have perused the material on record. Section 299 of the Bhartiya Nyay Sanhita, 2023 reads as under :

“Section 299. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

11. Bare perusal of the said Section would reveal that deliberate and malicious intention is a sine-qua-non for making out the said offence. Furthermore, the said deliberate and malicious intention would be for outraging religious of feeling of any class of citizens of India. This Section corresponds with Section 295A of the Indian Penal Code.

12. As per the averments in the F.I.R. the act of the applicant by cutting the hoarding/flex installed in front of his shop has disturbed the religious feeling of the public in locality. It is, however, noteworthy to mention that no member of the public has even lodged the complaint in this regard. Furthermore, even if the F.I.R. alleged that the applicant was previously involved in such type of acts and omissions, no details of whatsoever nature have been stated in the F.I.R. The averments in the F.I.R. are vague in nature. Even if the allegations in the F.I.R. are taken on their face value they do not constitute an offence punishable under Section 299 of the Bharatiya Nyaya Sanhita, 2023.

13. In the celebrated case of **Gian Singh Vs. State of Punjab and another**, reported in **(2012) 10 SCC 303**, the Hon'ble Apex Court held in para Nos.52,53,54 and 55 as under :

52. The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable under Section 320 of the Code.

53. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, 'nothing in this Code' which means that the provision is an overriding provision. These words leave no

manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

54. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of

the Code is of wide amplitude but requires exercise with great caution and circumspection.”

14. In that view of the matter and also in view of the fact that first informant/ non-applicant No.2 has no objection for quashing the F.I.R., no fruitful purpose would be served in directing the applicant to face the prosecution/trial. There are no chances of conviction in the present matter.

15. We, therefore, quash and set aside the F.I.R. bearing No.172/2025 dated 21.04.2025, registered with respondent No.1 Imamwada Police Station, Nagpur against the applicant for offence committed under Section 299 of the Bhartiya Nyay Sanhita, 2023.

16. However, the entire Police machinery was set in motion at the behest of respondent No.2, who is now chosen to give no objection for quashing of the F.I.R. We, therefore, deem it fit to impose costs of Rs.25,000/- each on the applicant as also the non-applicant No.2. Payment of costs to be made to the High Court Bar Library and compliance be reported to this Court within one week.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)