



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

CRIMINAL APPLICATION (APL) NO. 942 OF 2025

1. **Khushi w/o Dinesh Bhagat**
Aged about 18 years,
Occupation : student,
R/o Naranari Takshila Nagar
Nagpur, Tahsil and District
Nagpur
2. **Sau Diksha @ Sonali Khadse,**
Aged about 27 years,
Occ. Housewife,
R/o Lohi, Tahsil-Darwha
District Yavatmal
3. **Gautam Ukanda Varathi,**
Aged about 43, Occ. Labour
4. **Sau Kiran Gautam Varathi,**
Aged about 37 years,
Occ. Housewife,
The applicant Nos.3 and 4 are
resident of Sangliwadi
Tahsil-Darwha District Yavatmal

APPLICANTS

// V E R S U S //

1. **State of Maharashtra,**
Through its Police Station Officer,
Police Station Darwha Tahsil
Darwha & Distict Yavatmal
2. **Sau. Sarika w/o Vijay Khadse**
Aged about 35 years,
Occ.: Household
R/o Lohi, Tahsil-Darwha
District Yavatmal

NON-APPLICANTS

Mr Mazhar M. Khan Advocate for the applicant.
Ms H.N. Prabhu, APP for non-applicant No.1/State.
Ms Radha Mishra, Advocate (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J. AND
NANDESH S. DESHPANDE, JJ.
DATED : 24.09.2025

O R A L J U D G M E N T : (PER : URMILA JOSHI PHALKE, J.)

1. Heard.
2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.
3. The present application is preferred by the applicant for quashing of the First Information Report bearing No.663/2024 registered for the offences punishable under Sections 118(1), 189(2), 190, 191(2), 191(3), 352, 351(2) and 351(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and consequent proceeding bearing RCC No.242/2024 pending before 2nd Joint

Civil Judge Junior Division and Judicial Magistrate First Class,
Darwha District Yavatmal

4. The crime is registered on the basis of the report lodged by Sarika Vijay Khadase on the basis of the First Information Report Sarika Vijay Khadse who has alleged that on 23.08.2024 she along with her husband and children were returning back to her home from Manora, there was some dispute with one of her relatives namely Pratibha Veer since last 5 to 6 years. When she along with her sister-in-law and mother-in-law was returning back, the applicants approached them and started misbehaving with her by pulling her dupatta. The applicants also abused her and one of the co-accused assaulted her by means of a stick. Thereafter her sister-in-law pulled her to save her and one Kuldeep Khadse got hurt due to the assault by the stick. The accused persons also threatened her. On the basis of the said report police have registered crime against the present applicants.

5. Heard learned counsel for the applicants who has taken us to the FIR as well as entire statements of the witnesses which are recorded during the investigation. On perusal of the recitals of the FIR and statements of the witnesses general allegation is levelled against the present applicants. No overtact is attributed to them. In fact allegation is not to the extent of assault at the hands of present applicants. The specific allegation is levelled against co-accused Savita Dinesh Bhagat. He invited our attention towards the medical certificate also and submitted that on perusal of the medical certificate the offence under Section 118(1) is not made out and therefore, the application deserves to be allowed.

6. Learned APP strongly opposed for the same and submitted that in furtherance of the common intention all the applicants are assaulted the informant and therefore, prima-facie case is made out against present applicant. In view of that, application deserves to be rejected.

7. Learned counsel for the non-applicant No.2 endorsed the same contentions.

8. On hearing both the sides and on perusal of the entire investigation papers as well as the statement of the various witnesses and recitals of the FIR except mentioning the name of the present applicants no specific role is attributed to them. The law is settled as far as exercise of the power under Section 482 is concerned. In view of the observations of the Hon'ble Apex Court in the celebrated judgment of **State of Haryana and others vs. Bhajanlal and others** reported in **1992 Supp(1) Supreme Court Cases 335** where it is stated 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.

(4) 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.”

9. In view of the principles laid down by the Hon'ble Apex Court, in the aforesaid principle if the facts of the present case are taken into considered, admittedly except mentioning of the names of the applicants no role is attributed to them. Therefore, application deserves to be allowed.

10. In view of that, we pass the following order.

ORDER

(i) The Criminal Application is allowed.

(ii) First Information Report in connection with crime No.663/2024 registered for the offences punishable under Sections 118(1), 189(2), 190, 191(2), 191(3), 352, 351(2) and 351(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and consequent proceeding arising out of same R.C.C. No.242/2024 and charge-sheet No.182/2024 is hereby quashed and set aside to the extent of present applicants namely applicant No.1-Khushi Dinesh Bhagat, applicant No.2- Sau Diksha @ Sonali Khadse, applicant No.3- Gautam Ukanda Varathi and applicant No.4-Sau Kiran Gautam Varathi.

11. The fees of appointed counsel be quantified as per rules.
12. The criminal application stands disposed of.
Pending application, if any, also stands disposed of.

[NANDESH S. DESHPANDE, J] [URMILA JOSHI PHALKE, J.)

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