



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) No.1005 OF 2025

CRIMINAL APPLICATION (APL) No.1021 OF 2025

CRIMINAL APPLICATION (APL) No.1040 OF 2025

CRIMINAL APPLICATION (APL) No.1005 OF 2025

Dr. Anil s/o. Shobha Rathod,
Aged about 45 years,
Occupation : Medical Practitioner,
C/o. Ankur Nursing Home,
Talao Layout, Pusad,
Tq. Pusad, Distt. Yavatmal. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Pusad City,
Distt. Yavatmal.
2. ABC (Minor),
Through Guardian,
in Crime No.0259/25,
Registered at P.S.O. Pusad City. : NON-APPLICANTS

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Mr. Firdos Mirza, Senior Advocate assisted by Mr. Shaad Mirza,
Advocate for Applicant.

Ms. S.Z. Haider, Additional Public Prosecutor for Non-applicant No.1.
Mrs. Nisha Gajbhiye (Wasnik), Appointed Advocate for Non-applicant
No.2.

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AND

CRIMINAL APPLICATION (APL) No.1021 OF 2025

Dr. Vidya w/o. Anil Rathod,
Aged about 40 years,
Occupation : Medical Practitioner,
C/o. Ankur Nursing Home,
Talao Layout, Pusad,
Tq. Pusad, Distt. Yavatmal. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Pusad City,
Distt. Yavatmal.
2. ABC (Minor), : NON-APPLICANTS

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Mr. Firdos Mirza, Senior Advocate assisted by Mr. Shaad Mirza,
Advocate for Applicant.

Ms. S.Z. Haider, Additional Public Prosecutor for Non-applicant No.1.
Mrs. Nisha Gajbhiye (Wasnik), Appointed Advocate for Non-applicant
No.2.

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AND
CRIMINAL APPLICATION (APL) No.1040 OF 2025

Dr. Sneha w/o. Nakul Kadam,
Aged about 38 years,
Occupation : Medical Practitioner,
C/o. Nishkarsh Diagnostic Centre,
Talao Layout, Pusad,
Tq. Pusad, Distt. Yavatmal. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Pusad City,
Distt. Yavatmal.
2. ABC (Minor),
Through Guardian,
in Crime No.0259/25,
Registered at P.S.O. Pusad City. : NON-APPLICANTS

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Mr. Firdos Mirza, Senior Advocate assisted by Mr. Shaad Mirza,
Advocate for Applicant.

Ms. S.Z. Haider, Additional Public Prosecutor for Non-applicant No.1.
Mrs. Nisha Gajbhiye (Wasnik), Appointed Advocate for Non-applicant
No.2.

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CORAM : **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.
RESERVED ON : **01st OCTOBER, 2025.**
PRONOUNCED ON : **09th OCTOBER, 2025.**

JUDGMENT : (Per : Nandesh S. Deshpande)

1. Heard. Admit. Heard finally by consent of learned counsel appearing for the parties.
2. All these three applications are filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and they challenge First Information Report bearing No.0259/2025, registered with non-applicant No.1/Police Station Pusad City, District Yavatmal. Since all three applications challenged the same First Information Report, these applications are disposed of by common judgment.
3. The non-applicant No.2/minor, through her mother filed a complaint before the non-applicant No.1 alleging that the applicants in all these three applications have committed offences punishable under Sections 64(2)(f), 64(2)(i), 64(2)(m), 65(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4,6,19 and 21 of the Prevention of Children from Sexual Offences Act, 2012.
4. The applicant (in Criminal Application (APL) No.1005/2025) is a medical Practitioner having qualification in M.B.B.S., D.G.O. and runs a Nursing Home along with his wife,

who is a Gynaecologist (Criminal Application (APL) No.1021/2025). As per the First Information Report, non-applicant No.2 averred that she was engaged with one Dinesh Laxman Jadhav on 29.10.2024 and it was decided that they would get married after non-applicant No.2 completes 18 years of age. After engagement in the month of November 2024 when the parents of non-applicant No.2 had gone out of the house for doing labour work, said Dinesh, who happens to be cousin of non-applicant No.2, came at her house and stated that since they were getting married, there is no difficulty in establishing physical relationship. The non-applicant No.2, however, stated that it would not be proper and that and the same can be done after the marriage. However, said Dinesh persisted and established physical relationship with her. This phenomenon was repeated from November 2024 till April 2025.

5. On 21.4.2025 when non-applicant No.2 was having fever she took a tablet which resulted in excessive bleeding. Her mother, therefore, took her to the clinic of Doctor Vidya Rathod. The said doctor did pregnancy test of the non-applicant No.2 and then referred to her to Doctor Sneha Kadam for Sonography. Said Doctor Sneha Kadam (applicant in Criminal Application (APL) No.1040/2025) did Sonography and after getting the report, gave

the said report to Doctor Anil Rathod since Doctor Vidya Rathod was not present in the hospital. The said report was shown to Doctor Anil Rathod, wherein it was revealed that non-applicant No.2 is pregnant having a fetus of one and half month.

6. It is on these allegations that all the three applicants, who happened to be Medical Practitioners are implicated as accused and the offences as mentioned above are lodged against them. It is this First Information Report and the consequent charge sheet which is challenged in these applications by the said doctors.

7. We have heard Mr. Firdos Mirza, learned Senior Counsel assisted by Mr. Shaad Mirza, learned counsel for the applicants. We have also heard Ms. S.Z. Haider, learned Additional Public Prosecutor for the non-applicant No.1/State and Mrs. Nisha Gajbhiye, learned Appointed Advocate for the non-applicant No.2.

8. Learned Senior Counsel for the applicants took us through the averments made in the First Information Report and the consequent charge-sheet filed by the prosecution on record and stated that only allegations against the present applicants is that they did not inform/report commission of offence to the Special Juvenile Police Unit or the local Police and thus have committed an offence punishable under Section 19 of the Protection of Children from Sexual Offences Act, 2012. He further states that the

applicants in all the applications had no knowledge about the commission of said offence and they had no reason to have knowledge about the said offence. It is, therefore, his submission that continuance of criminal proceedings against the applicants is an abuse of process of law. He relies on the judgment of the Hon'ble Apex Court in the case of **SR. Tessy Jose and others Vs. State of Kerala**, reported in **(2018) 18 SCC 292** to buttress his submission.

9. Learned Additional Public Prosecutor for the non-applicant No.1, on the other hand, as also the learned counsel for non-applicant no.2 opposed the submissions of the learned Senior Counsel for the applicants and state that prosecuting agency has enough material to continue the prosecution against the accused. She further submits that the prosecution agency has collected material like entry register of Ankur Nursing Home as also the Sonography report which clearly show that the non-applicant No.2 had approached the applicants for doing test of Sonography. She, therefore, submits that present case does not fall under the category of rareest of rare case. The non-applicant No.2 also supports the learned A.P.P. and states that it was the obligation of the applicants to report the offence as the wording of the provision is mandatory in nature.

10. In the light of these facts, we have perused the First Information Report as also the charge-sheet filed by the Investigating Agency. In the case of *SR. Tessy Jose and others* (supra) in identical set of facts the Hon'ble Apex Court has held in para Nos.8,9,10,13 and 14 as under :

“8. After going through the record and hearing the counsel for the parties, we are of the opinion that no such case is made out even as per the material collected by the prosecution and filed in the Court. The statement of the mother of the victim was recorded by the police. The statement of the victim was also recorded. They have not stated at all that when the victim was brought to the hospital, her mother informed the appellants that she had been raped by the accused no. 1 when she was a minor. Admittedly, the victim was pregnant and immediately went into labour. In these circumstances, it was even the professional duty of Appellant No. 1 to attend to her and conduct the delivery, which she did. Likewise, after the baby was born, the Appellant No. 2 as a Paediatrician performed her professional duty.

9. The entire case set up against the appellants is on the basis that when the victim was brought to the hospital her age was recorded as 18 years. On that basis appellants could have gathered that at the time of conception she was less than 18 years and was, thus, a minor and, therefore, the appellants should have taken due care in finding as to how the victim became pregnant. Fastening the criminal liability on the basis of the aforesaid allegation is too far-fetched. The provisions of Section 19(1), reproduced above, put a legal obligation on a person to inform the relevant authorities, inter alia, when he/she has knowledge that an offence under the Act had been committed. The expression used is “knowledge” which means that some information received by such a person gives him/her

knowledge about the commission of the crime. There is no obligation on this person to investigate and gather knowledge. If at all, the appellants were not careful enough to find the cause of pregnancy as the victim was only 18 years of age at the time of delivery. But that would not be translated into criminality.

10. The term “knowledge” has been interpreted by this Court in A.S. Krishnan v. State of Kerala to mean an awareness on the part of the person concerned indicating his state of mind. Further, a person can be supposed to know only where there is a direct appeal to his senses. We have gone through the medical records of the victim which were referred by Mr. Basant R., Senior Advocate for the appellants. The medical records, which are relied upon by the prosecution, only show that the victim was admitted in the hospital at 9.15 am and she immediately went into labour and at 9.25 a.m. she gave birth to a baby. Therefore, appellant No. 1 attended to the victim for the first time between 9.15 a.m. and 9.25 a.m. on 7-2-2017. The medical records of the victim state that she was 18 years’ old as on 7-2-2017. Appellant No. 1 did not know that the victim was a minor when she had sexual intercourse.

13. The knowledge requirement foisted on the appellants cannot be that they ought to have deduced from circumstances that an offence has been committed.

14. Accordingly, we are of the view that there is no evidence to implicate the appellants. Evidence should be such which should at least indicate grave suspicion. Mere likelihood of suspicion cannot be the reason to charge a person for an offence. Accordingly, these appeals are allowed and the proceedings against the appellants in the aforesaid Sessions Case No. 460 of 2017 are hereby quashed.”

11. The controversy in the present matter has to be appreciated in view of the dictum of the Hon’ble Supreme Court

reproduced *supra*. In the present matter, it is not even case of the prosecution that all the three applicants had knowledge about the applicant being minor or they have reason to believe that she was minor. The Hon'ble Apex Court unequivocally states that the requirement of 'knowledge' as contemplated under Section 19 of the Act cannot be seen that the applicants like the Medical Practitioners ought to have deduced the age of the minor from the circumstances and, therefore, accordingly have reported it to the authorities under the Act.

12. In **A.S. Krishnan Vs. State of Kerala**, reported in **1998 Cri L.J. 207 (Kerala)**. The Supreme Court while distinguishing the term "intention", "knowledge" and "reasons to believe" has observed as under :

"9. Under the IPC, guilt in respect of almost all the offences is fastened either on the ground of "intention" or "knowledge" or "reason to believe". We are now concerned with the expressions "knowledge" and "reason to believe". "Knowledge" is an awareness on the part of the person concerned indicating his state of mind. "Reason to believe" is not the same thing as "suspicion" or "doubt" and mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of statement of mind. Likewise "knowledge" will be slightly on higher plane than "reason to believe"/ A person can be supposed to know where there is a direct appeal to his senses and a person is presumed to have a reason to believe if he has sufficient cause to believe the same. Section 26, IPC explains the meaning of the words "reason to believe" thus.

26. "Reason to believe" A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise."

10. In substance what is means is that a person must have reason to believe if the circumstances are such that a reasonable man would, by probable reasoning, conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference; but it is sufficient if the circumstances are such creating a cause to believe by chain of probable reasoning leading to the conclusion or inference about the nature of the thing. These two requirements i.e. "knowledge" and "reason to believe" have to be deduced from various circumstances in the case. (See Joti Parshad v. State of Haryana (1993 Supp (2) SCC 497 : AIR 1993 SC 1167)."

13. It is thus clear that knowledge is an awareness on the part of the person concern indicating his state of mind. 'Reason to believe' is a higher level of statement of mind and knowledge will be slightly on a higher level than reasons to believe. A person is said to have a 'reason to believe' a thing if he has sufficient reason to believe that thing but not otherwise. The Legislature has intentionally used the word "knowledge" in the present provision and, therefore, as interpreted by the Supreme Court "knowledge' would be an awareness on the part of the person indicating his state of mind. The provision or the statute nowhere contemplates that the person concerned should investigate as to whether the offence under the Act is committed or not. In the present matter, it can be deduced from the circumstances and from the material in the form of charge-sheet

placed on record that neither of the three applicants had knowledge, and in fact had no reason to be aware about the non-applicant No.2 being minor and that an offence punishable under Sections 4,6,19 and 21 of the Prevention of Children from Sexual Offences Act, 2012 has been committed against her. They were in fact doing their professional duty and advised her as per their medical knowledge and acumen. The provision of Section 19 cannot be stretched to the extent that any medical professional doing his professional duty would be implicated/ roped in under the said provision. If the said provision is interpreted in that fashion, it would result in disastrous, repercussion, and no professional (especially medical professional) would be doing his duty with utmost diligence as is expected of him/her.

14. From the above discussion it is clear that no offence as contemplated under Sections 19 and 20 of the Protection of Children from Sexual Offences Act, 2012 is made out against the applicants herein.

15. As far as offences under various Sections of Bharatiya Nyaya Sanhita, 2023 are concerned, Section 64(2)(f) also cannot be attracted against the present applicants. As far as offence under Section 64(2)(i) and 64(2)(m) are concerned, they are not attributed to the present applicants. Thus, no offence as stated in the First Information Report and the consequent charge-sheet is

made out against all the applicants. It would, therefore, an abuse of process of the Court if the criminal proceedings against the applicants are continued. The situation of would squarely fall within well settled parameters of the **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in **AIR 1992 SC 604** and more particularly clause 1,3 and 5 of paragraph 105 read 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.”

16. We, therefore, quash and set aside the First Information Report bearing No.0259/2025 and Charge-sheet No.451/2025 as far as applicants are concerned for the offence punishable under Sections 64(2)(f), 64(2)(i), 64(2)(m), 65(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4,6,19 and 21 of the Prevention of Children from sexual Offences Act, 2012. Hence, we proceed to pass following order :

ORDER

(i) The Criminal Application (APL) Nos.1005/2025, 1021/2025 and 1040/2025 are allowed.

(ii) The First Information Report bearing No.0259/2025, and Charge-sheet No.451/2025 registered with Police Station Pusad City, District Yavatmal for the offence punishable under Sections 64(2)(f), 64(2)(i), 64(2)(m), 65(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4,6,19 and 21 of the Prevention of Children from Sexual Offences Act, 2012 are quash and set aside as far as applicants are concerned.

(iii) The applications are disposed of.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)

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