



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

CRIMINAL APPLICATION (APL) No.1254 OF 2025

Sanjay Narayan Meshram,
Aged about : 66 years,
Occupation : Member of Legislative Assembly Umred,
presently residing at Bunglow No.15,
Pearl Heritage City,
Near Kanha Celebration Lawn,
Umred Road, Umred District, Nagpur. : APPLICANT

...VERSUS...

1. The State of Maharashtra,
Through the Police Station Officer,
Kuhi Police Station, Nagpur Rural.
2. ~~Shrikant Suresh Dhoke,~~
~~Age : 36 years,~~
~~Occupation :~~ The Zonal Officer,
having address at
Sub-Divisional Water Conservation
Depapartment, Kuhi, Nagpur : RESPONDENTS

Amended as per
Court's order dated
4.11.2025.

Mr. Rahul D. Dhande, Advocate for Applicant.
Mr. A.G. Mate, Additional Public Prosecutor for Respondent No.1.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 19th DECEMBER, 2025.
PRONOUNCED ON : 23rd DECEMBER, 2025.

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

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

2. This is an application filed under Section 482 of the Criminal Procedure Code for quashing and setting aside the Charge-sheet/Final Report bearing No.27/2025, dated 2.3.2025, pending before the Civil Judge Junior Division/Judicial Magistrate First Class, Kuhi bearing Summary Criminal Case No.158/2025 and the First Information Report No.568/2024 dated 20.11.2024 for the offences punishable under Sections 174 and 223 of the Bharatiya Nyaya Sanhita, 2023 read with Section 132(1) of the Representation of the People Act, 1951.

3. As per the averments in the application, the applicant is the sitting Member of the Legislative Assembly from Umred Constituency. It is further stated that the Election Commission of India declared elections for the Legislative Assembly of the State of Maharashtra to be held on 20th November, 2024 and the applicant was one of the contesting candidates. It is further stated in the application when the voting for the elections was ongoing, there were several complaints received from the voters of polling booth No.115 that the Officers of the said booth were conducting the election process at a very slow pace, as a result of which the voters had to stand in queue for long period. Therefore, there was an apprehension that such a slow pace of voting would dissuade voters from standing and ultimately exercising their franchise. The

applicant being a candidate was concerned about the said grievance and therefore, informed the Election Officer at the said booth to speed up the process.

4. However, it is alleged in the application that on 20.11.2024, the respondent No.2 i.e. the Zonal Officer for Poll Booth No.107 to 115 filed a Police complaint alleging that on 20.11.2024 at around 2.45 p.m. the applicant along with 5 to 6 people entered the polling booth and raised a complaint/grievance regarding the voting process being very slow. It is further alleged in the First Informant Report that the Booth Officer tried to explain the situation but the applicant was not in a mood to leave the said booth and tried to obstruct the voting process. It is further alleged that the videography of the said incident was done on the mobile phone which is contrary to the Model Code of Conduct. Based on these allegations, offences as mentioned under the above sections were clamped upon the applicant and the First Informant Report in question was lodged. It is this First Information Report which is challenged in the present application.

5. We have heard Mr. Rahul D. Dhande, learned counsel for the applicant and Mr. A.G. Mate, learned Additional Public Prosecutor for the respondent No.1.

6. Learned counsel for the applicant submits that lodging

of First Information Report is nothing but grave abuse of process of Court and no case is made out even after a meaningful reading of the same. He submits that there is a clear bar as provided under Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for taking cognizance of offence punishable under Section 223 of the Bharatiya Nyaya Sanhita, 2023. He further submits that as far as offence under Section 174 is concerned, it speaks about punishment for undue influence or personation at an election. It is his submission that even meaningful reading of the said Section would show that the conduct of the applicant as showed in the First Informant Report would not come within the purview of undue influence. As far as offence punishable under Section 132 of the Representation of the People Act, 1951 is concerned, it speaks about penalty for misconduct at the polling station and, therefore it is the submission of the learned counsel for the applicant that sub-section (1) of the said Section contemplates that any person, who misconduct himself may be removed from polling station by the Presiding Officer and only when the person so removed from a polling station re-enters the polling station, as contemplated under sub-Section (3) of Section 132 the punishment as prescribed under the said section it can be inflicted. He relies on a judgment of this Court reported in **2023 (4) Bom C.R. (Cri.) 865, Swarraj @ Raj**

Shrikant Thackeray Vs. State of Maharashtra and others to buttress his plea.

7. Per contra, learned Additional Public Prosecutor for the respondent No.1 submits that the gist of the complaint is regarding offence being committed by the applicant during the conduct of the election. He further states that a meaningful reading of the First Information Report, at least prima facie, would show that the applicant is guilty of committing offence. He further says that the investigation in the matter is complete, during which the spot panchanama has been recorded and, therefore, it would not be a fit case to quash the entire proceeding at this stage. It is his further contention that even if in view of the provisions of Section 215, complaint has to be filed by the public servant, it is a settled proposition of law that investigating machinery can be set into motion by anybody for the offences committed. He, therefore, prays for rejection of application.

8. In the backdrop of these facts we have carefully perused the contentions advanced by the learned counsel for the parties. As far as offence under Section 174 is concerned, it states about punishment for undue influence or personation at an election. As the applicant was one of the contesting candidates for the election there is no question of any undue influence or

personation at an election. Therefore, in our view the offence punishable under Section 174 of the Bharatiya Nyaya Sanhita, 2023 is not made out. Furthermore, as far as offence under Section 223 is concerned, cognizance of the said offence is expressly barred by virtue of Section 215 of Bharatiya Nagarik Suraksha Sanhita, 2023. The said Section is in *pari materia* with Section 195 of the Criminal Procedure Code which has been held to be mandatory in various cases. Thus, no Court can take cognizance of offence punishable under Section 223 which speaks about disobedience to order duly promulgated by public servant without a complaint in writing of the public servant concerned or of some other public servant who is administratively subordinate. However, in the present case, the complaint is given by one Shri Shrikant Dhoke, who happens to be a Zonal Officer of Zone No.11. No material has been placed on record or in the accompanying charge-sheet that he is duly authorized to make such a complaint.

9. In that view of the matter, we are of the considered opinion that offence under Section 223 is not made out, in view of the express bar of Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. Furthermore, as far as offence under Section 132(1) of the Representative of the People Act, 1951 is concerned, as rightly

contended by the learned counsel for the applicant that sub-Section (1) thereof contemplates that any person who misconduct himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by such Presiding Officer or any Police Officer on duty. Sub-Section (3) of said Section 132 provides that a person who has been removed under sub-Section (1) if re-enters the Polling Station without the permission of the Presiding Officer then only in that event the said person would be liable for punishment as provided under said Section. It is, therefore, clear that the person misconducting himself has firstly to be removed from the said Polling Station as contemplated under sub-Section (1). However, only when he re-enters the premises i.e. the Polling Station, penal provision comes into picture. As can be seen from the First Information Report, there is nothing on record to show that sub-Section (1) of Section 132 was complied with. Thus, in our view sub-Section (1) of Section 132 of the Representative of People Act, 1951 is also not made out. The situation therefore would squarely fall within the laid down parameters of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in AIR 1992 SC 604,

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.

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.”

11. We, therefore, pass the following order :

ORDER

(i) The application is allowed.

(ii) The Charge-sheet bearing No.27/2025 culminated into Summary Criminal Case No.158/2025 emanating from the First Information Report bearing No.568/2024 by the respondent No.2 against the applicant before the respondent No.1 for offences punishable under Sections 174 and 223 of the Bharatiya Nyaya Suraksha Sanhita read with Section 132(1) of the Representative of People Act is quashed and set aside.

(iii) The application is disposed of.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)