



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

CRIMINAL APPLICATION (APL) NO. 1641 OF 2025

Shri Ashishkumar s/o Krishanji
Tiwari,
Aged : 36 Years, Occ: Service,
R/o. Qtr. No.77/2, SRPF Camp
Group IV Hingna Road, Nagpur. **APPLICANT**

Versus

1. The State of Maharashtra,
Through PSO, Police Station MIDC,
Nagpur.
2. Mr. Dilip s/o Nirpen Mandal,
Police Sub-Inspector, SRPF Group
No.6, Dhule, State Disaster Response
Force, Dhule District-Dhule. **NON-APPLICANTS**

Mr. D.R. Rupnarayan, Advocate for the Applicant.
Mr. Shamsi Haider, APP for the Non-applicant No.1/State.

**CORAM : URMILA JOSHI PHALKE AND
NANDESH S. DESHPANDE, JJ.**

DATED : 6th NOVEMBER, 2025.

ORAL JUDGMENT :- (PER : NANDESH S. DESHPANDE, J.)

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned counsel for the parties.

3. This is an application filed under Section 482 of the Code of Criminal Procedure challenging the Final Report No.72/2021 dated 27.04.2021 arising out of FIR/Crime No.1043/2020 dated 30.12.2020 and consequent Criminal Case bearing Summary Criminal Case No.445/2021 pending before the learned Judicial Magistrate First Class Hingna, District Nagpur. The said FIR is registered for the offence punishable under Section 160 of the Indian Penal Code which speaks about affray.

4. It is alleged in the FIR that one Dilip Nirpen Mandal, a Police Sub Inspector of SRPF lodged a report stating that on 29.12.2020 when he was on duty at SRPF Camp he received an information that the Applicant and the accused No.2 Sadique Ahmed Shah were quarrelling with each other. He therefore, went to the spot and saw the present Applicant and accused No.2 Sadique Ahmed Shah were blaming each other and

fighting and hurling abuses at each other. Therefore, an FIR was lodged as stated above. It is this FIR and the consequent charge-sheet as also Summary Criminal Case stated above which is impugned in the present Application.

5. We have heard Mr. Rupnarayan, learned Counsel for the Applicant and Ms. Haider, learned APP for the Non-Applicant No.1/State. We have also perused the charge-sheet filed on record.

6. Mr. Rupnarayan, learned Counsel for the Applicant, submits that even assuming the allegations in the FIR to be entirely correct, they do not make out an offence punishable under Section 160 of the Indian penal Code, as there is no disturbance of public peace, which is a necessary ingredient for committing that offence. He relied on a judgment of Co-ordinate Bench of this Hon'ble Court in Criminal Application (APL) No.517/2025 (*Rajesh S/o Narayansingh Solanki and ors. vs. The State of Maharashtra and another*).

7. On the other hand, learned APP submits that the offence in question is clearly made out from the perusal of the

contents of the FIR and material collected by the investigating agency.

8. In the backdrop of these facts, Section 159 of the Indian Penal Code defines as under:-

“159. Affray.-- When two or more persons, by fighting in a public place disturb the public peace, they are said to “commit an affray”.

9. Section 160 of the Indian Penal Code provides for punishment for committing an offence punishable under Section 159 of the Indian Penal Code. The Co-ordinate Bench of this Court had an occasion to deal with some what identical facts and after placing reliance on the judgment of Hon’ble Supreme Court in **Mahant Kaushalya Das Vs. The State of Madras** reported in **AIR 1966 SC 22** it held that offence is not made out. Relevant paragraph of the judgment of the Hon’ble Supreme Court reads as under:-

“6..... mere causing public inconvenience is not sufficient. Here there are no statements of persons from the public to see even prima facie, as to whether the public peace was disturbed. Furthermore, the use of the word fighting will not be sufficient as in the present case the work used is ‘Maramari’. The said fighting should be as a result of use of force and further it can be considered that neither in the FIR nor in the statements under Section 161 of the Code of Criminal Procedure or even by the

Investigating Officer, it was tried to extract as to what was the point/reason, on which those persons were fighting. It also appears that though four persons were taken in custody, there were not taken for medical examination in order to see as to whether the said fighting has caused any kind of hurt to any one of them or all of them.”

10. In our view, the entire record does not show that there was disturbance to any public peace and the material in the charge-sheet depicts that it is not sufficient to attract ingredients of Section 159 of the Indian Penal Code, and therefore, it cannot be said that the Applicant committing an offence punishable under Section 160 of the Indian penal Code.

11. The situation would be squarely covered which is the laid down parameters of State of ***Haryana Vs. Bhajan Lal*** reported in ***AIR 1992 SCC 604*** and more particularly paragraph a thereto which reads as under:-

“(a) 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;”

12. It is also pointed out that, we have already taken a similar view in Criminal Application (APL) No.497/2024

decided on 26.09.2025 regarding the same crime number. In that view of the matter, we proceed to pass the following order.

ORDER

- i. The Criminal Application is **allowed**.
 - ii. The Final Report No.72/2021 dated 27.04.2021 arising out of First Information Report bearing Crime No.1043/2020 dated 30.12.2020 and consequential proceeding arising therefrom including the Summary Criminal Case No.445/2021 pending before the learned Judicial Magistrate First Class, Hingna, District Nagpur registered for the offence punishable under Section 160 of the Indian Penal Code, is hereby quashed and set aside against the present Applicant.
13. Pending application/s, if any, shall stand disposed of accordingly.

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI PHALKE, J.)