



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4336 OF 2024

1. ANKUSH BHAURAO SAWANT
2. SHARADA ANKUSH SAWANT
3. SANJAY RAOSAHEB SHIRSATH
4. RAOSAHEB SOPAN SHIRSATH
5. BABASAHEB RAOSAHEB SHIRSATH
6. RANJANA RAOSAHEB SHIRSATH

VERSUS

1. THE STATE OF MAHARASHTRA
2. PRITI NILESH KAMBLE

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Advocate for Applicants : Mr. Avinash R. Borulkar
APP for Respondent No. 1 : Mr. S.N. Morampalle
Advocate for Respondent No. 2 : Mr. N.D. Jaiswal

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**CORAM : RAJNISH R. VYAS, J.
DATE : 08TH APRIL, 2026**

PER COURT :

1. The challenge in the present application is to the First Information Report No. 359/2024, dated 16.07.2024, registered with Cantonment (Chawani) Police Station, Aurangabad City, for commission of offences punishable under Sections 333, 189 (2), 191 (2), 190, 115 (2), 352, 351 (2), 351 (3) of the Bhartiya Nayaya Sanhita, 2023. In the said FIR, lodged by one Priti Nilesh Kamble, total six accused are named whereas two are the unknown accused. The challenge is also to the filing of charge-sheet and order taking cognizance by the Magistrate.

2. Heard respective counsels.

3. Principal contention of the learned counsel for the applicants is that the FIR impugned is a striking example of a counter-blast and an arm twisting tactics. He submitted that on 14.07.2024, initially FIR No. 356/2024, for commission of offences punishable under Sections 376 (2) (n) of the Indian Penal Code and Section 4 and 8 of the Protection of Children from Sexual Offences Act, 2012, was registered by non-applicant no. 2 against Sumit Ankush Sawant.

4. In the said information report though incident had happened in between 01.04.2024 till 31.05.2024, non-applicant no. 2 had lodged the report at belated stage i.e. on 14.07.2024, falsely implicating the accused therein. According to him, though the accused named in the said FIR is not the applicant in the present proceedings, fact remains that his father and mother i.e. applicant nos. 1 and 2 are the applicants herein.

5. He then contended that non-applicant no. 2 any how wanted to falsely implicate the present applicants and in order to get arrested the son of applicant nos. 1 and 2 and, therefore, the impugned FIR is lodged. He further contended that counter-blast is clear from the fact that a non cognizable receipt was registered at the behest of Ankush Sawant /

applicant no. 1 against non-applicant no. 2 and her relatives for commission of offences punishable under Sections 352, 115 (2), 351 (2), 351 (3) and Section 3 (5) of the Bhartiya Nayaya Sanhita, 2023, on 16.07.2024.

6. In the said non cognizable report the information which was supplied to the police specifically states that on 15.07.2024, at about 10 'O' clock in the night, the accused persons named in NCR questioned the informant that as to where the son of applicant nos. 1 and 2 is hidden by them. The accused persons in the NCR also asked the complainant to bring his son before them and, thereafter, abused and assaulted them by means of fists and blows. It was alleged in the information reflected in NCR that applicant nos. 1 and 2 were also threatened.

7. Learned counsel for the applicants then contended that in order to give counter-blast to the NCR stated above which bears no. 1006/2024, dated 16.07.2024, the FIR impugned was lodged against them. He, therefore, prayed that continuation of criminal prosecution would not be in the interest of justice.

8. Per contra, learned counsel for non-applicant no. 2 and learned APP have contended that the arguments advanced by the counsel

for the applicants can at the most be termed as a defence taken by him which can be tested during the course of trial. According to them, at the stage of exercising power under Section 482 of Code of Criminal Procedure, mini trial cannot be conducted. Both of them, prayed for dismissal of the application.

9. With the assistance of respective counsels, I have gone through the record of the case, so also have given thoughtful consideration to the arguments advanced.

10. The record of the case clearly shows that on 14.07.2024, non-applicant no. 2 had lodged the complaint on the basis of which FIR was registered against the son of applicant nos. 1 and 2, for commission of offences punishable under Section 376 (2) (n) of the Indian Penal Code and under Sections 4 and 8 the Protection of Children from Sexual Offences Act, 2012. It is also clear from the record that on 16.07.2024, a non cognizable receipt was issued in favour of applicant no. 1, since according to applicant no. 1, non-applicant no. 2 and her family members had threatened and beaten them. The record also shows that impugned FIR is lodged thereafter, i.e. on 16.07.2024.

11. If the impugned FIR is perused, it is alleged therein by non-

applicant no. 2, that all the accused persons named therein, entered the house of non-applicant no. 2 and questioned as to why they had lodged the complaint against the son of applicant no. 1. On that count, they started abusing and giving fists and blows to non-applicant no. 2. They have also threatened non-applicant no. 2 to withdraw the case by accepting the expenses. Further threatening was given that they would take appropriate action against the daughters of non-applicant no. 2.

12. It is in this background, the contention of the parties are taken into consideration. No doubt, there is initial lodgment of non cognizable receipt at the behest of applicant no. 1, but nothing has been brought on record to show that in order to take non cognizable receipt to the logical end, any proceedings are filed before the Jurisdictional Magistrate by applicant no. 1. Just because, there is an NCR and, thereafter, the impugned FIR is filed that could not be a ground enough to quash the FIR impugned.

13. The allegations made in FIR are crystal clear that all the accused persons entered the house of non-applicant no. 2, threatened her and asked her to withdraw the case by accepting the amount. They have also threatened that her daughter would face consequences if the complaint is not withdrawn. It cannot be ignored that before two days

only non-applicant no. 2, has lodged the complaint on the basis of which serious offence under Section 376 (2) (n) of the IPC and under provisions of Sections 4 and 8 of the Protection of Children from Sexual Offences Act, is registered against the son of applicant nos. 1 and 2. The defence of the applicants that the impugned FIR is striking example of counter-blast can always be taken during the course of trial. Suffice it to say that the allegations are well-founded. Further there is an independent witness whose statement is brought on record by the prosecution, more particularly, at page no. 89. The neighbour by name Pratibha Praful Nirmal, in her statement dated 18.07.2024, has also supported the stand taken by non-applicant no. 2 and has categorically narrated the incident as narrated by non-applicant no. 2.

14. In that view of the matter, I find no merit in the arguments advanced by learned counsel for the applicants. Since the *prima facie* case is made out, I am not inclined to entertain the present application. Hence, Criminal Application is dismissed.

(RAJNISH R. VYAS, J.)