



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3109 OF 2025

Gajanan Kashiram Shekokar
Aged: 65 years, Occ: Service/Business,
R/o Mhada Colony, Near Baba Petrol Pump,
Aurangabad ...Applicant

Versus

- 1) The State of Maharashtra
- 2) Subhash S/o Baliram Pinjarkar,
Age: 60 Years, Occ: retired
R/o: N-7, CIDCO F-39/10,
Ayodhyanagar, Aurangabad ...Respondents

- Ms. S. R. Khan a/w Mr. Palak Kasliwal h/f Mr. H. P. Randhir, Advocate for the Applicant
- Mr. S. K. Shirse, APP for the Respondent/State
- Mr. Nitin Telgaonkar, Advocate for the Respondent No. 2 (appointed)

CORAM : S. G. CHAPALGAONKAR, J
RESERVED ON : APRIL 06, 2026
PRONOUNCED ON : APRIL 20, 2026

FINAL ORDER:

1. The Applicant seeks quashment of FIR No. 0343/2025 dated 20.06.2025 registered with Police Station, CIDCO, District Aurangabad for offence punishable under Section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 (for short 'Act of 2013').
2. The investigation was set into motion on the basis of

information given by Respondent No. 2 alleging that on 11.06.2025 at about 06.00 am when he woke up and came out of home, he found white mustard sprinkled in front of door. He checked CCTV footage recorded in cameras installed by his neighbor Mr. Ramrao Kakde, noticed that motorcycle registration no. MH-20-BE-8092 passed from his house. A person wearing helmet was riding same. The said motorcycle was found to be registered in name of Applicant/Accused. It is accordingly alleged that in night of 10.06.2025 till morning of 11.06.2025, accused sprinkled white mustard in premises of his house. The similar incident occurred at premises of Smt. Jyoti Shrirang Wadhekar. The aforesaid information was culminated into registration of FIR No. 343/2025 for offence under Section 3(2) of the Act of 2013 against Applicant.

3. The investigation progressed and finally charge-sheet no. 453/2025 dated 09.08.2025 came to be filed. Eventually, RCC No. 3181/2025 registered and pending trial before Judicial Magistrate First Class at Aurangabad against Applicant for offence punishable under Section 3(2) of the Act of 2013.

4. The learned Advocate appearing for Applicant would submit that from contents of FIR and material in charge-sheet offence under Section 3(2) of Act of 2013 cannot be made out. Section 3(2) of Act of 2013 applies only when a person claims to have supernatural powers or divine

influence and uses such a claim to create fear, exploit others or commit an act that harms the health, life or property of another. She would further submit that the alleged act must be shown to be done with intent to exploit or cause harm to victim through use of supernatural practices. There are no allegations in FIR that any sort of coercion or physical or financial harm or fraud is committed by accused against informant. No other ingredient of Section 3(2) of Act of 2013 attracts. She would further urge that FIR or the contents of charge-sheet are bereft to establish identity of Applicant as accused. She would submit that present FIR is counterblast to matrimonial dispute between Applicant's son and his ex-wife.

5. Per contra, learned APP and learned Advocate appearing for Respondent No. 2 urges that averments of FIR and material collected during investigation is sufficient to relegate Applicant for trial and no case can be made out for exercise of inherent powers of this Court for quashment of FIR and charge-sheet.

6. Having considered submissions advanced by learned Advocate appearing for respective parties and on perusal of material tendered into service, it is evident that Applicant is charged for offence punishable under Section 3(2) of Act of 2013. The allegation against Applicant is that he has sprayed or sprinkled white mustard in house premises of

Respondent No. 2 as well as his relatives. The identification of Applicant is based on alleged CCTV footage recorded in camera installed at house of Mr. Kakde who is neighbor of informant. Perusal of charge-sheet shows that statement of Mr. Kakde is not recorded or it is not made part of charge-sheet. Therefore, statement in FIR that motorcycle bearing no. MH-20-BE-8092 was seen in CCTV footage is not supported by statement of Mr. Ramrao Kakde, who is custodian or author of CCTV footage. Secondly, FIR merely suggest that person wearing helmet was seen on said motorcycle. Applicant is made accused only for reason that registration of motorcycle seen in CCTV footage is in the name of Applicant. Apparently, there is nothing to establish identity of Applicant as a person being rider of motorcycle bearing no. MH-20-BE-8092.

7. Even otherwise, if allegations in FIR are taken as it is on face value, act of sprinkling white mustard by accused itself would not constitute offence punishable under Section 3(2) of Act of 2013. It would be useful to refer sub-section (2) of Section 3, which reads thus:

(2) From the date of coming into force of this Act, commission of any act of human sacrifice and other inhuman, evil and aghori practices and black magic and any advertisement, practice, propagation or promotion of human sacrifice and other inhuman, evil and aghori practices and black magic, in violation of the provisions of this Act, by any person by himself or through any other person shall constitute an offence under the provisions of this Act, and the person guilty of such offence shall, on

conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees.

8. The careful reading of wordings in sub-section (2) of Section 3 depict that what is made punishable under this provision is any act of human sacrifice, evil and aghori practices and black magic by any person by himself or through any other person. Section 2(1)(b) defines aforesaid terms, which reads as under:

(b) "human sacrifice and other inhuman, evil and aghori practices and black magic" means the commission of any act, mentioned or described in the Schedule appended to this Act, by any person by himself or caused to be committed through or by instigating any other person;

9. Perusal of schedule shows that various practices like assaulting or tying person under pretext of expelling ghost, display of miracles for earning money and to deceive, defraud or terrorize people following inhuman, evil or aghori practices with a view to receive blessing of supernatural powers or doing black magic in search of precious things or create impression by declaring that a power inapprehensible by sense has influenced one's body or make person to believe that a particular person practices karni, black magic or brings under the influence of ghost or diminishes the milching capacity of a cattle or assaulting any person in name of jaran-maran, karni or chetuk or create panic in mind of public by

invoking ghost or mantras or prohibiting and preventing person from taking medical treatment in case of animal or insect bites or claiming to perform surgery by fingers or claiming to change sex of a foetus in womb or a woman or to claim create an impression that special supernatural powers are present in one's or to keep sexual relations assuring motherhood through supernatural powers or rob others by creating impression of a mentally retarded person of having any inhuman powers. Although aforesaid definition is exhaustive and covers various acts and practices, such act and practices must be with ill-motive or intention to induce person, who was subjected to such practice. In present case, mere allegation that accused person sprayed white mustard in premise of informant, however, without explaining intention behind such act, hence, it is not possible to bring such act within purview of act punishable under Section 3(2) of Act of 2013.

10. In light of aforesaid backdrop, it is argued that allegations incorporated in FIR are patently mala fide. It is discernible that Applicant and Informant are distinct relatives and there was on going matrimonial dispute between family members. The matrimonial dispute between Applicant's son and his wife was settled in Family Court Appeal No. 83/2024 as per terms of compromise dated 23.06.2025 and present FIR is lodged on 20.06.2025. There is close semblance between two proceedings.

The possibility that FIR is filed as a tool in settlement cannot be ruled out. At this stage, it is apposite to refer observations in case of *State of Haryana and Others vs. Bhajanlal and Others*, reported in 1992 Supp(1) SCC 335, in concluding paragraph no.102, more particularly, clause nos. 1, 3 and 7, which reads 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.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

11. Applying aforesaid principles in present facts, this Court hold that case is made out to invoke inherent powers under Section 482 of Code of Criminal Procedure.

12. In result, Criminal Application is allowed in terms of prayer clauses 'B' and 'B-1'.

(S. G. CHAPALGAONKAR, J.)

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