



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

CRIMINAL APPLICATION (APL) NO. 65 OF 2024

APPLICANTS:

1. Prabha w/o Tryambak Shirpure,
Age about 51 years, Occu: Service,
r/o Plot No. 200, Ingole Nagar,
Hudkeshwar Road, Nagpur.
2. Madhuri w/o Dilip Deshmukh,
Age about 48 years, Occu: Service,
r/o Plot No. 321, Tiranga Chowk,
Om Nagar, Nagpur.

...VERSUS...

NON-APPLICANTS

1. The State of Maharashtra,
through P.S.O. Dhantoli Police
Station, Nagpur.
2. Prakash s/o Bhanudas Sute,
Aged 63 years, Occu- Retired,
R/o Tenant in house of Ashwin Patil,
Bungalow No.97, Techops Garden,
Bahadura Chowk, Behind Sanjuba
High School, Nagpur.

WITH

CRIMINAL APPLICATION (APL) NO. 1012 OF 2024

APPLICANTS:

1. Dilip s/o Namdeorao Deshmukh,
Age about 58 years, Occu: Pvt.
R/o Plot No. 321, Tiranga Chowk,
Om Nagar, Nagpur.

2. Sanjay s/o Keshavrao Pahade,
Age about 55 years, Occu: Service,
R/o Plot No. 18, Renuka Mata Nagar,
Hudkeshwar Road, Nagpur.

...VERSUS...

NON-APPLICANTS

1. The State of Maharashtra,
through P.S.O. Dhantoli Police
Station, Nagpur.
2. Prakash s/o Bhanudas Sute,
Aged 63 years, Occu- Retired,
R/o Tenant in house of Ashwin Patil,
Bungalow No.97, Techops Garden,
Bahadura Chowk, Behind Sanjuba
High School, Nagpur.

Mr. R. K. Tiwari, counsel with Mr. A.A. Korpenwar, counsel with
Mr. V.V. Raut, counsel for applicants.

Ms Soniya Thakur, APP for non-applicant/State

Ms Kiran P. Wathore, counsel for non-applicant No.2.

CORAM : PRAVIN S. PATIL, J.

DATE : 21/01/2026

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of learned counsel Mr. R.K. Tiwari for the applicants, Ms. Soniya Thakur, learned APP for non-applicant/State and Ms Kiran P. Wathore, learned counsel for non-applicant No.2, the application is taken up for final hearing at the stage of admission.

2. In both applications, the challenge is to the Special

Case No. 351/2020 (State Vs Prabha and others) pending on the file of Special Judge and District Judge and Additional Sessions Judge-9, Nagpur, arising out of Crime No. 430 of 2019 for the offence punishable under Sections 143, 147, 149, 294, 500, 504 and 506 of Indian Penal Code, 1860 read with Section 3(1) (r) and 3(1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 92 of the Rights of Persons with Disabilities Act, 2016.

3. The submission of the present applicants is that, considering the allegations raised in the complaint and the investigation conducted by the Investigating Officer, even if the allegations are taken at their face value and accepted in their entirety, they do not prima-facie constitute any offence or make out a case against the present applicants. Hence, they seek indulgence in the matter by invoking powers under Section 482 of Code of Criminal Procedure.

4. The case of prosecution in short is that on complaint of the Respondent No.2 dated 17/11/2019, offence is registered and the investigation conducted by the investigation officer. It is their case that the respondent No.2 is a retired Headmaster of Zilla Parishad High School, Pachgaon, Tah. Umred, District Nagpur. He belongs to Scheduled Caste Category and has 40% disability. It is alleged that he came to know about the illicit relations between Prabha Shripure and one Shri Sanjay Pahade. Being the Headmaster of the School, at the relevant time, he conducted a departmental inquiry against Smt Prabha Shripure for her

misbehaviour. It is also pointed out that on 27/3/2018, he lodged a complaint at Police Station Kuhi, which was registered vide crime No. 122/2008 for the offence punishable under Sections 354-A, 509 of the IPC read with Section 67 of the Information Technology Act. In pursuance of that complaint, the informant was arrested by the police machinery. Thereafter, news was published in the daily newspaper Deshonnati.

5. In order to make the public aware of the real happenings, the informant conducted a press conference at Tilak Patrakar Bhavan on 04/4/2018 at around 6.15 p.m. At that time, the present applicant along with co-accused reached at Tilak Patrakar Bhavan and created a ruckus near the channel gate. It is further alleged that they hurled abuses and used filthy language against the informant.

6. It is further alleged that the said incident was captured on a mobile of Shri Dharampal Mate, who thereafter downloaded recording into a compact disk (CD) and handed it over to the informant. On the basis of the said CD, the informant claimed that he came to know that accused persons abused him by referring to his caste and disability and also threatened him. Hence, on the basis of this complaint, the offence came to be registered in the present matter as stated above.

7. The case of the applicants is that no offence as alleged is made out in the present matter for the simple and valid reason that an inquiry was conducted in the matter by Sub-Police Inspector, Police Station, Dhantoli, who submitted his report to the

Police Commissioner on 05/6/2019, which is a part and parcel of charge-sheet. As per the said report, the Investigating Officer recorded that he has made inquiry into the matter and recorded the statement of the persons mainly Deorao Pradhan and Prakash Sute, who were working as a Clerk at Patrakar Bhavan. From their statements, it is clear that no such incident as alleged had taken place. Therefore, considering said report, no offence is made out against the present applicants.

8. The Applicants have further relied upon the statement of one Jitendra Sonkamble, who was working as a Peon in Tilak Patrakar Bhavan. He stated that while the press conference was going on, at that time 3 to 4 ladies came near the gate and demanded to allow them to attend the press conference, which was denied. As per his statement, there was only a noise made by that women and nothing more has been done at the relevant time. He further stated that certain photographers present there captured the noise created by those women, at the relevant time. So also, in a same manner, the statement of one Shri Deorao Shankarrao Pradhan, who was working as Clerk at Tilak Patrakar Bhavan, was also recorded, corroborating the same version.

9. On the basis of this evidence, it is the submission of the present applicants that there is no material on record available to show that any abusive words were uttered by the applicants with reference to the caste or disability of the informant in the matter. It is submitted that at the most, there was some noise created by women seeking permission to attend the press conference, as

informant is likely to give wrong information in the matter.

10. In view of this submission, applicants have pointed out that the entire incident has been falsely created only because of the complaint lodged by the applicants on 27/3/2018, pursuant to which an offence was registered against the informant in the matter. Therefore, it is the submission of the applicants, it is nothing but a counterblast to the earlier complaint.

11. The applicants have relied upon the judgment of the Hon'ble Supreme court of India reported in the case of *Asmathunnisa Vs State of A.P. represented by the Public Prosecutor, High Court of A.P., Hyderabad and others reported in MANU/SC/0276/2011*, particularly paragraph Nos.10 and 12 which are reproduced as under :-

“10. The aforesaid paragraphs clearly mean that the words used are "in any place but within public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present.

....

12. Learned counsel for the appellant has also drawn our attention to a judgment of this Court Gorige Pentaiah v. State of Andhra Pradesh & Others (2008) 12 SCC 531. The relevant paragraph of this judgment is as under:

"6. .. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted or

intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.”

12. As per the law laid down by the Hon’ble Supreme Court of India, the offence under the Atrocities Act is attracted only in the case if the person is insulted by making certain allegations, the said allegation should be in the presence of that person. If that person is not present, then provisions of Atrocities Act are not attracted in the matter.

13. Learned counsel for the applicants also relied upon the judgment of this Court in the case of ***Pravin s/o Sudhakar Jade Vs State of Maharashtra and another in Criminal Application (APL) No. 364 of 2025 decided on 03/10/2025***, wherein it was held that to attract the offence under Section 294 of the Indian Penal Code, 1860, mere utterance of obscene words is not sufficient, but there must be a further proof to establish that it caused annoyance to others, if same is lacking then offence is not made out under Section 294 of the IPC.

14. It is stated that, it is not the case of prosecution that any one has heard the obscene words, and due to that annoyance was caused in the matter to the present person therein. Hence,

relying upon the judgment of this Court, it is clear case that offence under Section 294 of the IPC is not made out.

15. It is further stated that, the ingredients of Section 506 of the IPC are also not satisfied in the matter. Reliance is placed on paragraphs-8 and 12 of the same judgment, which read as under :-

“8. After hearing both sides and on perusal of the recitals of the FIR, wherein the allegations are levelled of abuses when the proceeding was going on before the Court. On perusal of the recitals of the FIR, it reveals that the words used covers under abuses, but as far as obscenity is concerned, the Hon'ble Apex Court in the case of ***N.S. Madhanagopal and another vs. K. Lalitha reported in (2022) 17 SCC 818*** wherein laid down the test of obscenity under Section 294(b) of the IPC observed that "The test of obscenity is this, "whether the tendency of the matter charged as obscenity is to deprive and corrupt those whose minds are open to such immoral influences." "This test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in ***Ranjit D. Udeshi Vs State of Maharashtra [MANU/SC/0080/1964]*** wherein the test of "obscenity" is the 'substantial tendency to corrupt by arousing lustful desires'. It impure thoughts, I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think the words are "obscene" and the utterance would constitute an offence punishable under Section 294(b) Indian Penal Code."

12. The Hon'ble Apex Court also considered the Section 506 of IPC in the said judgment and it is observed that Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other

offence. Mere abuse may not come within the purview of the section.”

16. Per contra, learned APP has strongly opposed the present application and submitted that in the present matter, the offence is registered on the basis of the CD, which was made available by the complainant in the matter. As such, considering the fact that, entire incidents has been recorded, and the same requires the evidence and at this stage, this Court cannot looked into the matter by conducting a mini trial. It is also stated that the complainant belonging to Scheduled Caste and therefore the allegations which are levelled needs opportunity to prove the same in trial. Hence, prayed to reject the application.

17. In the present matter, as pointed out by the applicants that there is an inquiry conducted by the Sub-Police Inspector, Police Station, Dhantoli and submitted his report on 05/06/2019, the said report clearly established that no such incident had taken place as alleged. So also, the statement of one Peon and Clerk working at Tilak Patrakar Bhawan also supports the submission of applicants.

18. It is further pertinent to note that in view of settled proposition of law as discussed above, neither the offence under Atrocity Act nor under the provisions of Indian Penal Code is made out in given facts of the matter. In my considered opinion, the complaint against the present applicants has been lodged with oblique motive and to counterblast to the earlier complaint of applicants against informant. Hence, continuation of the criminal proceedings against the applicants in such circumstances is

nothing but abuse of process of Court of law, and therefore, it is a fit case to invoke the power under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, I proceed to pass the following order.

ORDER

- a] The criminal applications are **allowed**.
- b] The proceedings Special Case No. 351/2020 (State Vs Prabha and others) pending on the file of Special Judge and District Judge and Additional Sessions Judge-9, Nagpur, arising out of Crime No. 430 of 2019 for the offence punishable under Sections 143, 147, 149, 294, 500, 504 and 506 of Indian Penal Code, 1860 read with Section 3(1) (r) and 3(1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 92 of the Rights of Persons with Disabilities Act, 2016, are hereby quashed and set aside.

19. Rule is made absolute in the aforesaid terms. No order as to costs.

(PRAVIN S. PATIL, J.)