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

CRIMINAL APPLICATION (APL) NO.203 OF 2024

1. Dhananjay s/o Balaji Jethe,
Aged about 59 Years,
Occupation : Retired Senior Clerk at
NCC Office, Amravati,
R/o Chaganpur, Naresh Township,
Taluka and District Amravati.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Gadge Nagar,
District Amravati.
2. Smt. Jyoti w/o Ravindra Bisne,
(Akhre)
Aged about 55 Years,
Occupation : Service at office
of Superintendent of Police
(Rural) Amravati.
R/o Krushnarpan Colony,
Gadge Nagar, Amravati.

....NON-APPLICANTS

Mr. Shashibhushan Wahane, Advocate for applicant.
Ms. R. V. Sharma, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/04/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel
for the applicant and learned APP for the State.

(2)

4. None appears for the non-applicant No.2 despite service of the notice.

5. Present application is preferred by the applicant for quashing of the FIR in connection with Crime No.1221/2023 registered with Police Station, Gadge Nagar, Amravati, District Amravati for the offence punishable under Sections 354 and 509 of the Indian Penal Code and the consequent proceeding arising out of the same bearing charge sheet No.788/2025.

6. The crime came to be registered on the basis of a report lodged by the non-applicant No.2 on an allegation that her husband namely Ravendra Laxman Bisne was serving at the NCC office at Amravati and due to the accident, he succumbed to the death. The applicant was looking after the pension bills of her husband. It is alleged by her that on 04.10.2023, she had been to the office of the present applicant to ascertain the status of the medical bills and at the relevant time, she asked the present applicant to explain her the bills. At that time, the present applicant told her to come near to him, and therefore, she found shameful and thus, she alleged that the present applicant has outraged her modesty. On the basis of the said report, police have registered the crime against the present applicant. After registration of the offence, investigation started rotating. During investigation, the Investigating Officer has recorded the

(3)

statement of the various witnesses. After completion of the investigation, the charge sheet came to be filed.

7. Heard learned counsel for the applicant, who submitted that even accepting the allegation as it is, by no stretch imagination it can be said that the offence under Section 354 of IPC is made out. There is no criminal force used by the present applicant, as the non-applicant No.2 has asked to explain her the bills, and therefore, he asked her to come near to him, which is not sufficient to infer that there was any intention on the part of the present applicant, and therefore, the application deserves to be allowed.

8. Per contra, learned APP strongly opposed the said contention and submitted that considering the intention of the present applicant to call her near to him, it is sufficient to infer that with a sexual intent these words were uttered by the present applicant and thereby *prima facie* case is made out against the present applicant. She also invited my attention towards Section 509 of IPC which deals with words, gesture or act intended to insult the modesty of a woman and submitted that in view of Section 509 also the offence is made out and therefore the application deserves to be rejected.

9. After hearing both the sides and on perusal of the entire investigation papers, the only allegation against the

(4)

present applicant is that as he called her near to him, she asked him to explain the bills, and therefore, she got ashamed and committed an offence punishable under Section 354 of the IPC. Section 354 of the IPC deals with assault or criminal force to woman with intent to outrage her modesty. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

10. Section 354 of the IPC deals with assault or criminal force to woman with intent to outrage her modesty. The Section states that whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

11. Admittedly, "modesty" is not defined in the IPC. However, it refers to indecent propriety of a woman and conduct. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such

(5)

gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine. The same ingredients to attract the offence must be fulfilled. As far as the present case is concerned, admittedly, the only allegation levelled against the present applicant is that he asked her to come near to him, these words uttered by him in the circumstance that the present non-applicant No.2 asked him to explain the bills, and therefore, no sexual intent can be attributed to the present applicant.

12. As far as the offence punishable under Section 509 is concerned, which deals with the any word, gesture or act intended to insult the modesty of a woman, which states that whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine. Considering the requirement to attract the offence punishable under Section 509 of IPC, no specific gestures are narrated by the non-applicant No.2 which are made allegedly by the present applicant. As far as the sexual intent is concerned, which is also absent in the present case and

(6)

therefore, continuation of the proceeding against the present applicant would be an abuse of the process of law. In view of that, after applying the parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, which are reproduced 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(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.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding 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

(7)

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.

(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.”

13. The *prima facie* case is not made out against the present applicant. In view of that, application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The FIR in connection with Crime No.1221/2023 registered with Police Station Gadge Nagar, Amravati, District Amravati for the offence punishable under Sections 354 and 509 of the Indian Penal Code and the consequent proceeding arising out of the same bearing charge sheet No.788/2025, are hereby quashed and set aside against the present applicant.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)