



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

CRIMINAL APPLICATION (APL) NO.463/2024

Ghanshyam Rajendra Dhole
Aged 40 years, Occ. Advocate
R/o. 8, Anantwadi, Badnera Road,
Amravati(Maharashtra)

... **APPLICANT**

...**VERSUS**...

1. State of Maharashtra,
Through Police Station Officer, Police
Station, Malkapur Gramin (Rural),
Tq. Malkapur, District Buldana.
2. Sau. Lata Dinesh Tayde,
Aged about 40 years, Occ. Household,
R/o. Jalamb Naka, Nandura Road,
Near Hanuman Mandir Khamgaon,
Tq. Khamgaon, Distt. Buldana.

...**NON-APPLICANTS**

Shri Ghanshyam R. Dhole, applicant in-person
Mrs S.V. Kolhe, APP for non-applicant No.1/State
Shri M.V. Rai, Advocate for non-applicant No.2

CORAM : PRAVIN S. PATIL, J.

DATE OF RESERVING THE JUDGMENT : 04.02.2026

DATE OF PRONOUNCING THE JUDGMENT: 12.02.2026

JUDGMENT

Heard. By consent of the parties, this matter is taken
for final disposal at admission stage.

2. The applicant herein challenged the registration of the proceedings in RCC No.283/2025 arising out of Crime No.56/2024 and chargesheet No.77/2024 registered with Police Station, Malkapur Gramin, Tq. Malkapur, District Buldhana, for the offences punishable under Sections 354, 294, 295 and 506 of the Indian Penal Code.

3. The applicant approached before this Court to challenge the registration of the offence against him by raising a ground of alibi. According to him, on the day on which the alleged incident is occurred, he was not present on the spot and, therefore, no offence is made out against him.

4. It is stated that there is a long dispute between the parties pending before the Charity Commissioner in respect of Saint Shri Yogiraj Govind Maharaj Sansthan, hence, out of perusal grudge and to set the score, the false complaint is lodged against him in the matter by non-applicant No.2.

5. The case of the prosecution in short is that the non-applicant No.2, lodged complaint on 29.02.2024 and alleged that

she along with her husband and relatives was offering prayers to Shri Yogiraj Govind Maharaj in the temple. At that time, the applicant, who claims to be a descendant of Govinda Maharaj, reached the temple and stated that the temple belongs to him and nobody had the right to offer prayers there. The applicant threw the cow dung on the door of the Temple. Not only this, the applicant outraged her modesty by holding her hand and dragged her on his person. The applicant also abused her in filthy language and threatened her to kill, if she again seen in the temple. As such, on these allegations, the offence came to be registered against the present applicant.

6. It is in respect of the alleged incidence, applicant has taken specific defence that on 29.02.2024, he was present before the learned Civil Judge Senior Division, Malkapur to attend the proceedings bearing SCC No.893/2021. As such, considering the fact that on the day of incident, he was present at Malkapur, by applying the plea of alibi, no offence is made out against him in the matter and, therefore, the entire criminal proceedings registered against him are liable to be quashed and set aside.

7. In this regard, it will be relevant to refer the judgment of the Hon'ble Supreme Court in the case of ***Rajendra Singh vs. State of U.P. and ors., Manu/SC/3245/2007***, wherein the Hon'ble Supreme Court has held that the plea of alibi is a question of fact which must be proved during the trial with clear and cogent evidence. The plea of alibi, if raised, should be considered only after the prosecution has successfully proven its case and the burden of proof rest on the accused to establish the plea of alibi with certainty. This Court while exercising the powers under Section 482 of the Indian Penal Code, cannot meticulously examine the evidence filed along with the chargesheet by the investigating officer or the documents which the accused/applicant relied upon. The said issue can be dealt with by leading proper evidence in the trial. In this regard the observation of the Hon'ble Supreme Court in paragraph No.7 and be relevant in the matter.

“7. That apart, the plea taken by the respondent Kapil Dev Singh in his petition under Section 482 Cr.P.C. was that of alibi. Section 103 of the Evidence Act says that the burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is proved by any law that the proof of that fact lie on any particular person. The second illustration to

Section 103 reads as under:

B wishes the Court to believe that at the time in question, he was elsewhere. He must prove it.

This provision makes it obvious that the burden of establishing the plea of alibi set up by the respondent No. 2 in the petition filed by him under Section 482 Cr.P.C. before the High Court lay squarely upon him. There is hardly any doubt regarding this legal proposition. See Gurcharan Singh v. State of Punjab MANU/SC/0122/1955: 1956CriLJ827 Chandrika Prasad Singh v. State of Bihar MANU /SC /0084 /1971:1972 CriL J22 and State of Haryana v. Sher Singh MANU/SC/0236/1981: 1981 CriL J71. This could be done by leading evidence in the trial and not by filing some affidavits before the High Court. In such a case the prosecution would have got an opportunity to cross-examine those witnesses and demonstrate that their testimony was not correct. Learned Counsel for the appellant has submitted that in fact no affidavits were filed in the High Court but what was filed were copies of two or three affidavits which were given by some persons before the Superintendent of Police, Allahabad. Thus, there was absolutely no legal evidence in support of the plea of alibi of Kapil Dev Singh, which the High Court chose to rely upon and accept for the purpose of quashing the order passed by the learned Sessions Judge.”

8. In light of the facts of the present case, for considering the submission of the applicant that on 29.02.2024, he was not present on the spot, in my opinion, this is not a stage where the

ground of alibi raised by the applicant can be considered. In my opinion, as per the law laid down by the Hon'ble Supreme Court of India, it is for the applicant to establish his case by adducing evidence before the Sessions Court and, therefore, his contention regarding his absence on the spot cannot be considered in the matter.

9. In view of the above, in my considered opinion, the submission, which is raised by the applicant and the stand, which he has taken of alibi, cannot be looked into and, accordingly, the offence, which is registered against him, cannot be set aside at this stage by invoking the powers under Section 482 of the Criminal Procedure Code. Hence, for the above said reasons, I find no merit and accordingly, application stands rejected.

10. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare