

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

CRIMINAL APPLICATION (APL) NO. 566 OF 2024

APPLICANT :- Narendra Sureshrao Bawankar,
Aged about 37 years, Occu: Nil,
R/o Lokmat Colony, Buttibori, Tq.
and District Nagpur.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra,
through P.S.O., P.S. Rajapeth,
Tq. and District Amravati.

2) XYZ in Crime No. 45/2024, PSO PS
Rajapeth, Tq. & Dist. Amravati.

Mr. A.S. Mardikar, Senior Counsel with Mr. Digvijay Singh, counsel for applicant.
Mr. K.R. Lule, APP for respondent/State.
Ms. Chaitali Bhute, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATE : 17/03/2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Heard finally with the consent of learned Senior Counsel for the applicant, learned APP for respondent/State and learned counsel for respondent No.2.

3. The present application is filed by the applicant, who is the

father of the victim child, for quashing of the FIR in connection with Crime No. 45 of 2024, registered with Police Station Rajapeth, District Amravati, for the offences punishable under Sections 376(1) and 376(2) (f) of the Indian Penal Code, 1860, and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, and consequent proceedings arising out of the same, bearing Chargesheet No. 173 of 2024 (Special Case No. 59 of 2024)

4. The crime was registered on the basis of a report lodged by the respondent No.2, who is the mother of the child. She alleged that she has been residing at her parents' house for the last two years. Her marriage with the present applicant was performed in the year 2017. From the said wedlock, she has one daughter and one son. The daughter is aged about 5 years. After marriage, she resumed cohabitation and was staying along with her husband. However, her husband was sexually harassing her and was also not permitting her to visit her parents' house. In September 2021, when she was pregnant, a daughter was three and half years old, she went outside the house for some work. When she returned, she found that the present applicant was sexually assaulting her daughter, and therefore she inquired with him, he abused her in a filthy language. There was no change in the behavior of the present applicant, and therefore, she was constrained to leave the matrimonial house and started residing along with her parents house. On the basis of the said report, police have registered the crime.

5. After registration of the crime, the Investigating Officer investigated the matter and after completion of the investigation, submitted charge-sheet against present applicant.

6. Heard learned Senior counsel for the applicant, who submitted that merely because there is a dispute which is matrimonial in nature between the applicant and respondent No.2, who are husband and

wife. By taking the assistance of the minor child, this false report is lodged against the present applicant. Learned counsel demonstrated from the record regarding the falsity of the offence.

6.1 He invited my attention towards the pleading to the present respondent No.2 before the Civil Judge Senior Division, Wardha, while the application was filed for seeking decree of dissolution of marriage by mutual consent. In paragraph-15, it is mentioned that she is residing at her parents' house since 22/8/2021. He submitted that if she is residing along with her children at her parents' house from 22/8/2021, there is no reason for her to come again at the house of the present applicant, as the alleged incident, according to her, has taken place in the year 2021. Her pleading before the Court itself shows that she started residing along with parents from 22/8/2021 i.e. much prior to the date of incident.

6.2 He further invited my attention towards the fact that, as soon as she filed an application for various reliefs under the provisions of Domestic Violence Act before the Judicial Magistrate First Class, Wardha, and the present applicant filed an application on 16/1/2024 for availing the visiting rights, on the very next date on 17/1/2024, this FIR came to be lodged. He submitted that alleged incident has taken place in September 2021, as per the allegations by the informant, whereas the FIR is lodged after approximately after three years. No explanation is provided for the delayed filing of FIR.

7. He submitted that, in the light of the above circumstances, it is crystal clear that the FIR is lodged with false and baseless allegations, only to implicate the present applicant and the alleged offence to deprive him from having access to his own daughter. In view of that, the application deserves to be allowed.

8. Per contra, learned APP and learned counsel for the

complainant strongly opposed the said contention and submitted that considering the allegations levelled against the present applicant, which are very serious in nature. The applicant, who is the father, has subjected the minor victim girl, aged about three and half years for sexual assault and the statement of the informant substantiates the said contention. The victim was also medically examined, and the various statements are recorded with sufficiently shows the involvement of the present applicant in the alleged offence. In view of that, the application deserves to be rejected.

9. Before entering into the merits of the matter, it is necessary to see what is the object of the Protection of Children from Sexual Offences Act. The primary object which which the Protection of Children from Sexual Offences (POCSO) Act was introduced is to protect all children under 18 from sexual assault, sexual harassment, and child pornography, and to provide a supportive environment for child victims. The Act ends to achieve this by strengthening legal provisions against child sexual abuse, mandating the reporting of offences to prevent under reporting, establishing Special Courts for speedy trials, and creating the child friendly legal process that protects the victim's identity and mental health. The Act was introduced to protect the children.

10. Now, the question is whether the respondent No.2 has misused the said provisions.

11. The crime was registered on the basis of a report lodged by the respondent No.2, wherein she alleged that applicant, who is the father of the child, subjected her for the sexual assault in September 2021. Admittedly, she has not narrated the specific instance as far as the alleged incident is concerned. She has specifically alleged that the incident has occurred in September 2021. Even accepting that the incident has occurred in September-2021, her own pleading before the Court i.e. in an application which she filed for seeking the decree of dissolution of

marriage by mutual consent shows that since 22/8/2021, she is residing along with her parents house along with her children. If she is residing at her parents' house on 22/8/2021, then there was no occasion for the respondent No.2 to come to reside with the present applicant, and there is nothing on record to show that after she left the matrimonial home on 22/8/2021, she again resumed cohabitation and was staying along with the present applicant. Therefore, the allegation itself is falsified in view of the said statement made by the mother of the victim girl before the Court i.e. Civil Judge, Senior Division, Wardha.

Corrected as per
courts order
dt. 08.04.2026

12. It is further apparent from the record that as the applicant had preferred an application for availing his visiting rights before the Judicial Magistrate First Class, and on the 2nd day i.e. 17/1/2024, this FIR came to be lodged, which shows that with an ulterior motive, this FIR came to be lodged against the present applicant.

13. In view of that, the parameters laid down in the Hon'ble Supreme Court of India in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors.*** reported in ***AIR 1992 SC 604***, are relevant, 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 Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, 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.

14. By applying the said parameters, it is a fit case wherein the continuation of the proceedings would be an abuse of the process of law. In view of that, it is a fit case to exercise the power under Section 482 of

the Code of Criminal Procedure to quash the FIR. In view of that, I proceed to pass the following order:

ORDER

- a) The criminal application is **allowed**.
 - b] The FIR in connection with Crime No. 45 of 2024 registered with Police Station Rajapeth, District Amravati for the offence punishable under Sections 376(1), 376(2)(f) of the Indian Penal Code, 1860, and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012., and consequent proceedings arising out of the same bearing Chargesheet No. 173 of 2024 (Special Case No. 59 of 2024), is hereby quashed and set aside to the extent of the present applicant.
15. The fees of the appointed counsel be quantified as per Rule.
16. Pending application(s), if any, shall stand **disposed of** accordingly.

(URMILA JOSHI PHALKE, J.)