



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

CRIMINAL APPLICATION (APL) NO.963/2024

Pranhans s/o Namdev Meshram
Aged- Major, Occu. Teacher,
R/o At Post Murmadi/Sawari, Taluka
Lakhani, District Bhandara

... **APPLICANT**

...VERSUS...

1. State of Maharashtra,
Through Police Station, Lakhani
2. Ku. Trushna Subhash Khedikar,
Aged- Major, Occu. Principal,
R/o. Post Pashcim Samarth Nagar
Murmadi/Sawari, Taluka Lakhani,
District Bhandara

...**NON-APPLICANTS**

Shri A.M. Quazi, Advocate h/f Shri T.A. Mirza, Advocate for applicant
Mrs S.V. Kolhe, APP for non-applicant No.1/State
Shri H.A. Khedikar, Advocate for non-applicant No.2

CORAM : PRAVIN S. PATIL, J.

DATED : 02.02.2026

ORAL JUDGMENT

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

2. By this application, the applicant is seeking to quash and set aside the order dated 04.05.2024 passed by learned Judicial Magistrate First Class, Lakhani and further to quash and set aside the charge-sheet in Crime No.117/2020 registered for the offences punishable under Sections 295A, 153(A) (1) (b), 505(2) of the Indian Penal Code by the police Station Lakhani.

3. The submission of the present applicant in the present case is that there is no sanctioned obtained by the investigating officer from the State Government as required under the provisions to law and secondly even the allegations are taken at their face value, the offence under Section 295(A), 153, and 505 of the Indian Penal Code is not made out against him in the matter. Hence, seeks indulgence of this Court to quash and set aside the proceedings registered against him.

4. The case of the prosecution in short is that, on 31.05.2020, at around 3 p.m., the applicant forwarded a seditious and anti-national message in the School group, criticizing the enforcement of lockdown on 24.03.2020 under Section 144 of the Criminal Procedure Code. In view of this, a written complaint was

lodged by non-applicant No.2 to the Police Station, Lakhani, and thereby the offence came to be registered against the present applicant.

5. It is pertinent to note that there was a delay of 72 days in filing the final report by the investigating officer to the learned Judicial Magistrate. Accordingly, the application was moved for condonation of delay of 72 days in filing the complaint. The said application was strongly opposed by the present applicant stating that there is a need of sanction of prosecution from the Government and in absence of same, the Court cannot take cognizance nor the charge-sheet can be filed in the matter. However, learned Judicial Magistrate First Class, Lakhani, by his order dated 04.05.2024 by observing that the taking of cognizance is different than filing of final report allowed the application for condonation of 72 days delay. In the circumstances, the applicant approached before this Court challenging the order passed by learned Judicial Magistrate First Class, Lakhani, dated 04.05.2024 as well as the charge-sheet which is accepted and criminal proceeding registered as R.C.C. No.59/2024 pending before the Magistrate.

6. Before advertng to the merits of the case, it will be relevant to consider Section 295 A of the Indian Penal Code which reads as under:

“295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [citizens of India], [by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to [three years], or with fine, or with both.”

7. The perusal of Section 295A, what is important is that there should be a deliberate and malicious intention of outraging the religious feelings of any class of citizens of India by words or by signs or by visible representations or otherwise. As such, Section 295A does not penalized each and every act of insult or attempt to insult the religion of religious beliefs of a class of citizens, but it penalized only those acts of insults to or those varieties of attempts to insult the religion or the religious belies of class of citizens which are perpetrated with deliberate and malicious intentions of outraging the religious feelings of that class. Insult to religion

offered unwillingly or without any deliberate or malicious intention to outrage the religious feeling of that class do not come within Section 295 A of the Indian Penal Code.

8. It is further pertinent to note that offences enumerated under Section 196 of the Criminal Procedure Code in respect of which prior sanction has been made mandatory, which deal with matters relating to public peace and tranquility with which the State Government is concerned. Those offences being exceptional in nature, previous sanction of the Government is a *sine qua non* and no Magistrate can take cognizance unless sanction order is produced.

9. In the present case, the allegation against applicant is that he has circulated the message in WhatsApp group of School staff. The contents of the message was circulated in between the members of WhatsApp group only. As such, it is the submission of applicant that ingredient of Section 295-A are not attracted in the matter. Hence, no offence is made out against him in the matter.

10. Learned Counsel appearing for non-applicant No.2 has strongly opposed the application stating that forwarding a message on a mobile, which is having school group, this forward was came to be knowledge of various persons and as all members were of the same opinion, the non-applicant No.2 came forward and lodged the complaint, hence, it cannot be said that the offence is not made out against the present applicant. Hence, he prayed that this Court should not interfere at this stage of this matter and in case, the Government grants sanction to the prosecution, then the case can be prosecuted against the present applicant. He further stated that on the directions of the Education Officer Secondary, Zilla Parishad, Bhandara, he has lodged this complaint and, therefore, this aspect needs consideration in the matter.

11. It is a settled position of law as laid down by the Hon'ble Supreme Court in the case of *Manoj Rai and others Vs. State of Madhya Pradesh in 1991 (1) SCC 728*, that in absence of sanction under Section 196(1) of the Criminal Procedure Code, the proceedings under Section 295-A are not tenable and same deserves to be quashed and set aside. Hence, considering the law laid down

by the Hon'ble Supreme Court of India, *prima facie*, in view of absence of sanction under Section 196(1) the entire prosecution stands quashed on this sole ground.

12. In light of this legal position, I have considered the submission which was advanced by the applicant as well as learned APP in the matter. The learned APP has placed on record the communication from non-application No.1 dated 01.06.2016 and pointed out that till date, there is no sanction received from the State Government to initiate the Criminal Proceedings against the present applicant. As such, on this sole ground, entire criminal proceeding registered against the applicant are unsustainable in the eyes of law. However, the applicant has insisted that on merits also, there is no case made out against him and, therefore, I heard the parties on the merits of the case also.

13. It is the submission of the applicant that there was a message sent by applicant in the group of School staff. There are limited members in that WhatsApp group. The said group cannot be said to be a class of any particular religion nor all members are annoyed or disturbed by such message forwarded by him. He has

relied upon the judgment of the Division Bench of this Court in case of *Pramod s/o Udeybhan Shendre Vs. The State of Maharashtra, through Police Station Officer, Police Staton Narkhed, Dist. Nagpur and another in Criminal Application (APL) No.1077/2023*, wherein in paragraph No.22, this Court observed as under:

“22. The another point that cropped up is that those messages were end to end encrypted that means they could not have been seen by third person, then whether it can be gathered that the said act attracts Section 295A of the IPC. The Investigating Officer has not collected names of all the group members. It is not stated in the charge-sheet and/or FIR how many of the members of Muslims. Only four witnesses and one informant cannot be counted as 'class' as contemplated in Section 295A of the IPC. We are of the opinion that the offence under Section 295A of the IPC is not transpiring from the contents of the FIR, together with the material collected in the charge-sheet.”

14. In the present case also nothing came on record that how many members in the group and whether such limited members can be counted as a class as contemplated under Section 295A of the Indian Penal Code. So also, it cannot be gathered from the complaint of non-applicant No.2 that due to the message of applicant, any enmity between different groups or prejudice harmony between different groups or class of society. Hence, no

offence is attracted either under Section 295-A or Section 153-A of the Indian Penal Code.

15. In light of above fact and circumstances of the case, and the allegations, which are leveled against the present applicant, which he has forwarded, the sentiment of class of citizens are not affected. There is only non-applicant No.2, who came forwarded who received the message along with 3 to 4 other members of the group. However, as per the law laid down by the Division Bench of this Court in the case of ***Pramod s/o Udeyghan Shendre*** (*supra*), in my opinion, the offence under Sections 295-A and 153-A of the Indian Penal Code is not made out in the matter. Hence, for the aforesaid reasons, the application deserves to be allowed.

16. Hence, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings in Criminal M.A. No.106/2023 and charge-sheet in Crime No.117/2020 registered for the offences punishable under Section 295-A, 153(A)(1)(b) and 505(2) of the Indian Penal

Code on 20.04.2020 by Police Station, Lakhani is hereby quashed and set aside.

17. The application stands disposed of. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare