



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (APL) NO. 1064 OF 2024**

Prakash s/o Vilas Jadhav
Aged about : 30 Years, Occu : Service;
R/o Nagapura Rupada, Umerkhed, District
Yavatmal.

... APPLICANT

VERSUS

1. State of Maharashtra
through Police Station, Mehkar, District
Buldhana.
2. Sanjeevani d/o Vijay Pundge
Aged : 26 Years; Occu : Service; R/o
Deshmukh Fail Railway Colony,
Ramdaspath, Akola-445001.

... NON -APPLICANTS

Mr. S. M. Mate, Advocate a/w Ms. A. P. Murrey, Advocate for Applicant.
Mr. G. S. Umale, APP for Non-applicant No.1/State.
Ms. J. A. Deshpande, Advocate (appointed) for Non-applicant No.2.

**CORAM : PRAVIN S. PATIL, J.
DATE : JANUARY 30, 2026.**

ORAL JUDGMENT

. Heard. **Rule.** Rule made returnable forthwith. Heard finally with
consent of the learned Counsel for both sides.

2. By this Application, the Applicant is seeking quashment of the

proceeding bearing Special Case No. 9/2018 pending on the file of Special Judge, Buldhana and Chargesheet No. 42/2018 dated 30/5/2018 arising out of Crime No. 205/2017 for the offence punishable under Sections 354-D, 294, 500, 504, 506 and 509 of Indian Penal Code read with Sections 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (*for short, 'the Atrocities Act'*) and Sections 67 and 67-A of the Information Technology Act, 2000.

3. It is the case of the prosecution that the Non-applicant No.2 was working as Police Sub Inspector Probationary in the year 2015, and thereafter she was deputed at Kumbhmela Police Bandobast at Nashik. At that time, Non-applicant No.2 along with other police employees were residing in Jain Sansthan Dharmashala, Nashik, wherein the Applicant was working as a Cashier. She came in contact with the Applicant and they got acquainted with each other and were in talking terms. It is also stated that the Applicant took her mobile for the purpose of repairing at her request and helped her in withdrawing the amount from her account in the bank through ATM Card.

4. It is also alleged that in the year 2016 when the Complainant was deputed at Police Station, Mehkar, the Applicant was trying to contact her and proposed her to marry with him. The Non-applicant No.2 refused his marriage

proposal. Due to this, Applicant threatened her to defame by showing the selfie photos which were taken at Nashik market. On 28/3/2017, Applicant went to the house of Non-applicant No.2 and expressed his willingness to marry with the Non-applicant No.2 to her mother. However, her mother refused his marriage proposal by stating that her daughter belongs to Scheduled Caste Category and the Applicant belongs to Banjara Community, therefore, marriage could not be performed. Thereupon, the Applicant threatened her mother that he would not allow the Non-applicant No.2 to marry with another person and he would defame the Non-applicant No.2. On 13/7/2019 the Applicant abused the Non-applicant No.2 in filthy language and threatened her of dire consequences. On the basis of these allegations, an offence came to be registered against the Applicant.

5. It is the submission of the Applicant that if the allegations, which are made against him, are looked into minutely, this Court will come to the conclusion that Applicant and Non-applicant No.2 were acquainted with each other at Nashik. It is also clear from the statement of the Non-applicant No.2 that as they were acquainted with each other, she voluntarily given her mobile phone to the Applicant for repairing purpose. As such, considering these entire

facts of the matter, it is clear that there was intimacy between them, and therefore, she provided her mobile phone to the Applicant with full faith.

6. The learned Counsel for Applicant has pointed out that photographs which are stated to be obtained by the present Applicant and produced on record clearly demonstrates the fact that they are having cordial relations. It is also clear that some of the photographs are snapped with the family members of the Non-applicant No.2. Hence, it cannot be said that they were not knowing each other, rather it is clear from the photograph that Applicant was well acquainted with the entire family of Non-applicant No.2, and therefore, out of this cordial relation could express the mother of Non-applicant No.2 about his desire to perform marriage with her daughter.

7. This incident further clarifies the fact that only because of their love relationship this attempt was made by the Applicant, but his marriage proposal was refused by the Non-applicant No.2. In my opinion, considering the complaint lodged by the Non-applicant No.2 and the documents which are available on record, particularly, photographs, clearly demonstrate the fact that there were cordial relations between the Applicant and Non-applicant No.2. Therefore, the offence under Section 354-D of Indian Penal Code is not attracted in the matter.

8. In respect of the offence under the provisions of Atrocities Act, neither the allegations are made against the Applicant that he has abused the Non-applicant No.2 on her caste nor anything has been collected by the Investigating Officer during the course of investigation to prima facie attract the offence under the provisions of Atrocities Act.

9. Insofar as the provisions of the Information Technology Act are concerned, though it is specifically alleged by the Non-applicant No.2 in her complaint in respect of threats given by the Applicant of defaming her by showing selfie photos in the mobile, no material seems to have been collected by the Investigating Officer in pursuance of the said allegations. Therefore, in my opinion, if the Investigating Officer could not collect any incriminating material as alleged by the Non-applicant No.2 in her complaint, only on the basis of statement of the Non-applicant No.2, the offence under Sections 67 and 67-A of Information Technology Act does not attract in the matter.

10. It is pertinent to note that the Hon'ble Supreme Court in the case of Mahmood Ali and Others V/s State of Uttar Pradesh and Others, (2023) 15 SCC 488 has observed in paragraph Nos.11 and 12 as under :

“11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the

inherent powers under Section 482 of the Code of Criminal Procedure or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.”

11. In the present case, it is necessary to record the fact that Non-applicant No.2 herself is working as Police Sub Inspector. Therefore, possibility cannot be ruled out that with her experience she has drafted the complaint against the Applicant to ensure that averments made in the complaint should disclose the necessary ingredients to constitute the alleged offence and thereby wash out the clot in her life that she was anytime related with the Applicant.

12. The learned Counsel for Applicant has relied upon one undated

communication issued to the Superintendent of Police, Buldhana, whereby it is alleged that the Non-applicant No.2 and her relatives called him at her house on 4/7/2017 at Nagpur and when he reached there, her relatives beaten him and threatened to kill him. The learned Counsel for Applicant stated that in order to justify the said document, he has applied under the Right To Information Act to the office of Superintendent of Police Buldhana thereby requesting to supply the said communication which was sent by him with registered post to the said office, however, the said document was not supplied by the Superintendent of Police on the ground that the record has been destroyed by the office. As such, this document though cannot be relied upon being undated and without having stamp of acknowledgment. However, from the attempt made by the present Applicant to get the authenticated copy of the same cannot be brushed aside.

13. In the circumstances, considering all the factual as well as legal aspects in the matter, I am of the considered opinion that the offence under Sections 354-D, 294, 500, 504, 506 and 509 of Indian Penal Code is not made out in the matter. In respect of offence under Sections 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989, as I have already held that there was never any intention of the Applicant, as

alleged, hence the offence under Sections 3(1)(w)(ii) is not attracted in the matter. In the circumstances, I proceed to pass following order.

ORDER

1. Criminal Application is allowed.
2. The proceeding bearing Special Case No. 9/2018 pending on the file of Special Judge, Buldhana and Chargesheet No. 42/2018 dated 30/5/2018 arising out of Crime No. 205/2017 for the offence punishable under Sections 354-D, 294, 500, 504, 506 and 509 of Indian Penal Code read with Sections 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 67 and 67-A of the Information Technology Act, 2000 are hereby quashed and set aside.
3. Ms. Deshpande, learned Counsel appointed for the Non-applicant No.2 is appeared in the matter. Her professional fees be quantified as per Rules.
4. Rule is made absolute in above terms. No order as to costs.

[PRAVIN S. PATIL, J.]