



Judgment

apl104.25

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

CRIMINAL APPLICATION (APL) NO.104 OF 2025

Pavanesh s/o Rameshchandra Agrawal,
age – 43 years, occupation Advocate,
r/o Sai Sadan, 4/5, 48 Blocks,
MHADA Colony, Ram Nagar,
Ratanlal Plots, Akola.

..... **Applicant.**

:: VERSUS ::

1. State of Maharashtra,
through PSO Mana, District Akola.

2. Satish Dattuji Dhakare,
age about 40 years, occupation driver,
r/o Vaibhav Kalani Dastur Nagar,
Amravati, district Amravati. **Non-applicants.**

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Shri Amol Jaltare, Counsel for the applicant.

Shri N.B.Jawade, APP for the NA No.1/State.

Shri Sahil Dewani, Counsel for NA No.2.

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CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 29/01/2026

PRONOUNCED ON : 03/02/2026

JUDGMENT

1. Heard learned counsel Shri Amol Jaltare for the
applicant, learned APP Shri N.B.Jawade for the State, and

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learned counsel Shri Sahil Dewani for the non-applicant No.2 (the complainant). **Admit.** Heard finally by consent.

2. By this application, the applicant seeks quashing of the FIR in connection with Crime No.0119/2023 registered for offences under Sections 294, 323, 324, and 506 read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.191/2024.

3. The crime is registered on the basis of a report lodged by Satish Dattuji Dhakre on 25.4.2023 alleging that he is working with one Rajendrabhai Nebhnani as a driver. On 24.4.2023, around 5:30 pm, he was driving his “Creta Car” from Amravati to Murtijapur and between villages Madhapuri and Kurum, at the relevant time, one “Mahendra Scorpio” bearing registration No.MH-04/GU/9064 came from behind and was blowing horn continuously. There was some delay on the part of the complainant in giving side to the driver of the said “Scorpio Vehicle,” which has to

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overtake the complainant. However, the driver of the “Scorpio Vehicle” got annoyed and started abusing him in a filthy language and has obtained a rod from woman sitting in the vehicle and assaulted the complainant by dragging him from the vehicle. On the basis of the said report, police have registered the crime against the applicant.

4. Learned counsel for the applicant submitted that the applicant is an Advocate by profession. In fact, the applicant was assaulted by the complainant by forming an unlawful assembly on account of earlier quarrel took place on the pretext of giving side while driving the vehicle. The applicant has also lodged FIR to that effect, which is registered vide Crime No.148/2023. As far as the incident alleged is concerned, it has never happened. Only to implicate the applicant falsely, the FIR came to be lodged. In view of that, the application deserves to be allowed.

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He further submitted that considering the statements of the witnesses, who are only interested witnesses, no *prima facie* case is made out against the applicant and on that ground also, the application deserves to be allowed.

5. *Per contra*, learned APP for the State and learned counsel for the complainant strongly opposed the said contentions and invited my attention towards statements of independent witnesses Saiyyad Naushad Saiyyad Nasir and Salim Khan Ajmat Khan and submitted that they were passers-by. Their statements also show that it was the applicant who has used the iron-rod in assaulting the complainant. The medical certificate is also on record which shows that the complainant has sustained the injuries on occipital region i.e. on the scalp as well as blunt trauma on chest and left shoulder. Though the injuries are simple in nature, considering the conduct of the present applicant, who assaulted the complainant, merely side was not given

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to him as soon as he has blown the horn, the application deserves to be rejected.

6. After hearing both the sides and perusing the investigation papers, it shows that the applicant is charged for the offence that he has abused the complainant in a filthy language as well as assaulted him by means of rod.

As far as the assault is concerned, it is substantiated by the medical certificate. The medical certificate shows the injuries on the person of the complainant. This fact is also substantiated by the statements of the independent witnesses. The statements of the independent witnesses also state that they have witnessed the incident on the road. They have specifically stated the role of the applicant. These statements are of Saiyyad Naushad Saiyyad Nasir and Salim Khan Ajmat Khan.

7. Thus, considering the statements substantiated by the medical certificate, at this stage, the allegation

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regarding the assault by the applicant is substantiated by the investigation papers.

8. As far as the offence punishable under Section 294 of the IPC is concerned, admittedly, mere abuses are not sufficient to attract the offence. As per the allegations, the words uttered by the present applicant are, “क्यु रे हरामखोर तेरे को गाडी चलाना आता नही क्या, ज्यादा माजगया क्या.....”

9. Whether these abuses are sufficient to attract the offence under Section 294 of the IPC.

10. As far as “obscenity” is concerned, the observations of the Hon’ble Apex Court in the case of **N.S. Madhanagopal and anr vs. K.Lalitha, reported in (2022), 17 SCC 818** are relevant wherein it is laid down the test of “obscenity” under Section 294 of the IPC and observed that, “whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences.”

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It has been further observed that, “this test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in **Ranjit D. Udeshi vs. State of Maharashtra**, reported in MANU/SC/0080/1964 that the test of “obscenity” is the ‘substantial tendency to corrupt by arousing lustful desires’.” “In order to be “obscene” the matter must “tend to sexually impure thoughts. I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think that the words are “obscene” and the utterance would constitute an offence punishable under Section 294(b)IPC.”

This aspect is further considered by the Hon’ble Apex Court in the case of **Om Prakash Ambadkar vs. State of Maharashtra**, reported in MANU/SC/0134/2025 wherein it is observed that, “insofar as Section 294 of the IPC is concerned, this court in **N.S.Madhanagopal and anr vs.**

K.Lalitha, has explained the true purport and scope of Section 294”.

It is further observed, as under:

“It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC”.

It is further observed that, “mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case”.

11. In view of the above said observations, as far as the application under Section 294 is concerned, at the most, it can be said that the words used by the applicant were defamatory to the complainant, but the words are not at all coming within the purview of “obscene.”

12. Now, it is settled law that mere abuses or utterances is not sufficient to attract offence under Section 294(b) of the IPC. There has to be some lascivious elements showing sexual thoughts or feelings.

13. As far as the present case is concerned, no one has spoken about the “obscene” words and due to that, they felt annoyed and in the absence of legal evidence to show that the words uttered by the applicant annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of the IPC are made out. Therefore, the allegations regarding abuses and thereby the applicant has committed an offence punishable under Section 294 will

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not sustain and, therefore, the application deserves to be allowed to the extent of application under Section 294 of the IPC.

14. In this view of the matter, the application deserves to be allowed partly. Accordingly, I proceed to pass following order:

ORDER

(1) The Criminal Application is **Allowed Partly**.

(2) The FIR in connection with Crime No.0119/2023 registered for offences under Sections 294, 323, 324, and 506 read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.191/2024 are hereby quashed and set aside to the extent of application under Section 294 of the IPC in respect of applicant Pavanesh s/o Rameshchandra Agrawal.

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(3) The trial will proceed as far as offences under Sections 323, 324, 506 read with 34 of the IPC.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!