



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

CRIMINAL APPLICATION (APL) NO. 461 OF 2025

Praful S/o Madhukar Khode,
Age 36 years, Occ: Secretary,
Avtar Meher Baba Education Society,
R/o Vivekanand Colony, Hinganghat, **APPLICANT**
Dist.-Wardha

Versus

1. State of Maharashtra,
Thr. PSO Hinganghat,
District Wardha.
2. Sau. Manisha Rajendra Kamble,
Aged 39 years, Occ: Student,
R/o. Sant. Tukdoji Ward, Pragya
Nagar, Hinganghat, Dist. Wardha. **NON-APPLICANTS**

Mr. A.M. Jaltare, Advocate for the Applicant.
Mr. N.H. Joshi, APP for the Non-applicant No.1/State.
Mr. S.D. Chande, Advocate for the Non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 04th MARCH, 2026.

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Counsel for the respective parties.

3. The present Application is preferred by the Applicant under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing of the First Information Report in connection with Crime No.8/2025 registered with Police Station Hinganghat, District Wardha for the offences punishable under Sections 74, 351(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3(1)(w)(i), 3(1)f, 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989 and consequent proceeding arising out of the same bearing Spl. Case No.13/2025.

4. The crime is registered on the basis of a report lodged by the Non-applicant No.2 on an allegation that she is working as Assistant Teacher in Late Indira Gandhi Vidyalaya, Hinganghat since 2011. On 02.01.2025 in the morning at about 11.10 a.m., she has entered into the chamber of the Headmaster for the purpose of signing the muster. At that time, the present Applicant was sitting there in the chamber and there was nobody in the chamber, he has outraged the modesty by

catching her from the back side. On the basis of the said report Police have registered the crime against the present Applicant.

5. Heard learned Counsel for the Applicant, who invited my attention towards the earlier FIR lodged by the present Applicant vide Crime No.9/2025 under Section 296, 324(4) and 351(2) of BNS which was registered at 05.00 p.m. on 02.01.2025, wherein the present Applicant has alleged that when he was sitting in the office of the institution, at that time, present Non-applicant No.2 came there and abused him in the filthy language and also caused the damage to the furniture of the institution. On the basis of the said report, the crime was registered against the present Non-applicant No.2. He invited my attention towards the various statements of witnesses who were also working in the said school and submitted that none of the statements shows that there was any such incident has happened. On the contrary, it supports the case of the present Applicant that there was hot exchange of words between them. Thus, to give the counterblast to the complaint lodged by the present Applicant, this false FIR came to be lodged against the present Applicant. He submitted that, in the light of the above

facts and circumstances, no *prima facie* case is made out and hence, the Application deserves to be allowed.

6. *Per contra*, learned APP strongly opposed the said contention and submitted that, the statement of the Non-applicant No.2 at this stage is relevant, which shows that, the present Applicant has outraged her modesty and thereby committed an offence, which is sufficient to constitute the offence punishable under Section 354 of IPC (Section 74 of BNS) and hence the Application deserves to be rejected.

7. Learned Counsel for the Non-applicant No.2, also endorsed the same contention and invited my attention towards various documents and submitted that, these documents shows that the action was taken against other employees, and therefore, the employees have not supported to the case of the present Non-applicant No.2. He submitted that, there is no reason for the Non-applicant No.2 to make a false allegation. Her statement itself is sufficient to constitute the offence. He submitted that, specific instance is narrated by the Non-applicant No.2 and at this stage it is sufficient to constitute the offence and hence the Application deserves to be rejected.

8. After hearing both the sides and on perusal of the entire investigation papers it reveals that, the present Applicant and Non-applicant No.2 both are serving in the same school. The alleged incident as per the present Applicant as well as from the Non-applicant No.2 has taken place on 02.01.2025 in the office of the institute. As per the contention of the present Applicant, when he was sitting in the office of the institute, the present Non-applicant No.2 came there and raised the quarrel with him as to why her salary is not drawn and on that count abused him in the filthy language, whereas it is the contention of the Non-applicant No.2 that, the present Applicant has outraged her modesty by catching her from the backside. During investigation, the Investigating Officer has recorded the statements of various witnesses and none of the statements show that there was any hue and cry by the present Non-applicant No.2 after the said incident. On the contrary, all the statements disclose that there was hot exchange of words between the present Applicant and the Non-applicant No.2 and thereafter they both came outside the office and left the place. Thus, as far as the contention of the present Non-applicant No.2 that she was subjected for outraging of modesty and her

subsequent conduct that there was no hue and cry due to the incident of outraging the modesty. Moreover, the fact is not substantiated by any of the statements of witnesses. On the contrary, the statements of witnesses substantiated to the extent that there was hot exchange of words between the present Applicant and the Non-applicant No.2.

9. To constitute the offence punishable under Section 354 of IPC (Section 74 of BNS), there has to be use of criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, then it is said that the offence under Section 354 of IPC is committed.

10. In the light of the statements of various witnesses the allegation levelled by the present Non-applicant No.2 is not substantiated by any material even to constitute the *prima facie* case.

11. As far as the provisions of the Atrocities Act are concerned, now it is well settled that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act of 1989 unless such insult

or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe.

12. This aspect is now considered by the Hon'ble Apex Court in the case of *Shajan Skaria Vs. The State Of Kerala & Anr. in Criminal Appeal No.2622 of 2024 (arising out of SLP (CRL.) No.8081 of 2023) decided on 23.08.2024*, wherein it is held that the purport of the Act of 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would not attract Section 3(1)(r) of the Act of 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe.

13. While expressing the intent to humiliate the Hon'ble Apex Court further observes that, the words "with intent to humiliate" as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based

humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the “upper castes” over the “lower castes/untouchables”.

14. In the light of the above observations of the Hon’ble Apex Court if the facts of the present case are taken into consideration, admittedly, the allegations are not substantiated by any of the statements of the witnesses who were present at the School at the time of the incident. Moreover, the FIR lodged by the present Applicant is prior in time to the FIR lodged by the present Non-applicant No.2. At this stage, it is apparent that, as the initial complaint was lodged by the present Applicant and to give a counter blast to the said complaint, this FIR came to be lodged.

15. These entire facts and circumstances if examined in the parameters laid down by the Hon’ble Apex Court in the case of *State of Harayana & Ors. Vs. Ch. Bhajan Lal & Ors., 1992 AIR 604*, which reads 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 concerned Act (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 concerned Act, 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.”

16. At this stage no *prima facie* case is made out against the present Applicant and continuation of the proceeding

against him would be an abuse of the process of law. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed**.
 - ii. The First Information Report in connection with Crime No. 8/2025 registered with Police Station Hinganghat, District Wardha for the offences punishable under Sections 74, 351(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3(1)(w)(i), 3(1)f, 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989 and consequent proceeding arising out of the same bearing Spl. Case No.13/2025, are hereby quashed and set aside to the extent of present Applicant.
17. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)