



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

CRIMINAL APPLICATION (APL) NO. 559 OF 2025

Suresh S/o Pandurang Dhoke,
Aged about 55 Yrs., Occ. Service,
R/o. 149, New Amar Nagar,
Manewada Ring Road, Nagpur,
Tah. & District Nagpur.

APPLICANT

Versus

1. State of Maharashtra,
Thr. Police Station Officer, Bhiwapur,
Nagpur, District Nagpur.
2. Pradip S/o Ramkrushna Ambhore,
Aged about 54 Yrs., Occ. Nil,
R/o Jawali, Tq. Bhiwapur, District
Nagpur.

NON-APPLICANTS

Mr. S.I. Ghatte, Advocate for the Applicant.
Mr. N.B. Jawade, APP for the Non-applicant No.1/State.
Mr. A.R. Fule, Advocate for the Non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 16th FEBRUARY, 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.607/2024 registered with Police Station Bhiwapur, District Nagpur for the offence punishable under Sections 78, 79 of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') and consequent proceeding arising out of the same bearing Spl. Case No. 132/2025.

4. Brief facts of the present case which are necessary for the disposal of the present case are as under:

The present Applicant who is working as Headmaster of the School and the several parents of the several girls child have lodged a complaint against the present Applicant that the Applicant used to give obscene signs to the girls students and also uttered obscene words during the class

hours. The Complainant also states that, during picnic also the behaviour of the present Applicant was not appropriate and he used to follow the girls when they proceeded for urination. On the basis of the said report, Police have registered the crime against the present Applicant. During investigation the statements of various witnesses were recorded and after completion of the investigation the charge-sheet was filed against the present Applicant.

5. Heard learned Counsel for the Applicant, who submitted that, the Applicant is working as Headmaster. He submitted that, the statements of witnesses shows that, initially their signatures were obtained on the blank papers and thereafter the said complaint was filed by one of the parent. He submitted that, the statements of these witnesses discloses that there was no such complaint as to the behaviour of the present Applicant and merely because there was unsatisfied parents with the assistance of their daughters they have filed the false complaint against the present Applicant. He submitted that, now the investigation is already completed and charge-sheet is filed. From the investigation papers itself it reveals that, the

maximum parents have stated before the Investigating Agency that they have no complaints against the present Applicant and no *prima facie* case is made out against the present Applicant. In view of that, he submitted that, the FIR and the consequent proceeding against the present Applicant deserves to be quashed.

6. *Per contra*, learned APP and learned Counsel for the Non-applicant No.2 pointed out the statements of some of the witnesses and submitted that the statements of the witnesses discloses the behaviour of the present Applicant. They submitted that, though some of the parents have supported the contention of the present Applicant that they have not made the complaints against the present Applicant but the statements of two students clearly shows the behaviour of the present Applicant and at this stage it would be too early to come to the conclusion that the present Applicant has not committed any offence and he is an innocent person. They submitted that, the statements of two girls cannot be disbelieved as they have specifically narrated the allegations against the present

Applicant, and therefore, the Application deserves to be rejected.

7. After hearing both the sides and on perusal of the entire investigation papers it reveals that, initially one application was filed having signature of various parents to the Investigating Agency making complaints against the present Applicant. Subsequently, the parents of some of the students approached to the Investigating Agency and submitted that their signatures were obtained on the blank papers and they have no complaints against the present Applicant. However, there are two statements of the witnesses which recorded on 31.12.2024 discloses as to the act of the present Applicant which covers the ingredients of the offence punishable under Section 12 of POCSO Act. (In view of Section 228 of IPC the names of these witnesses are not disclosed in the order but the said statements can be identified as the statement of 'R' and the statement of 'S'). These statements of Victim 'R' and Victim 'S' are recorded before the Members of Child Welfare Officer. Then statement of one witness parent of the student on page 168 also

substantiates the said allegations i.e. the statement of the Complainant.

8. Learned Counsel for the Applicant placed reliance on *Salib Alias Shalu Alias Salim Vs. State of Uttar Pradesh & Ors., (2023) 20 SCC 194*, and submitted that when some of the statements gives the clean chit to the present Applicant and the attending circumstances are such which are to be taken into consideration. In view of that, in the present judgment also the Hon'ble Apex Court has considered this fact and observes as under:

“Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) 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. 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. In frivolous or vexatious

proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.”

9. The present Applicant is charged under the offence punishable under Section 12 of POCSO Act, which provides punishment for sexual harassment. The definition of sexual harassment is given under Section 11 of POCSO Act, which reads as under:

*“11. **Sexual harassment.**—A person is said to commit sexual harassment upon a child when such person with sexual intent,—*

(i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or

(ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

(iii) shows any object to a child in any form or media for pornographic purposes; or

(iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

(v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

(vi) entices a child for pornographic purposes or gives gratification therefor.

Explanation.—Any question which involves “sexual intent” shall be a question of fact.”

10. On perusal of the statements of the Victim girls ‘R’ and ‘S’ reveals that they have specifically stated about the act of the present Applicant dated 30.12.2024 as well as the obscene words used and the signals given by the present Applicant, which sufficiently attracts the offence punishable under Section 12 of the POCSO Act. The object with with the POSCO Act was introduced is requires to be taken into consideration. The primary object of POCSO Act are 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 part 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.

11. In light of the above said object, the act of the present Applicant who happens to be a guardian of the children obviously requires to be taken into consideration. This act itself is sufficient to attract the ingredients of the offence punishable under Section 12 of POCSO Act. At this stage, even accepting the observations of the Hon'ble Apex Court and in respectful agreement of the same it would be difficult to infer that the statements of these two child witnesses are false and by accepting the other statements of the other students it would be difficult to accept that the Applicant has not committed any offence. At this stage, there is some material to infer that the offence is made out against the present Applicant.

12. In view of the parameters laid down by the Hon'ble Apex Court in the case of of ***State of Harayana & Ors. Vs. Ch. Bhajan Lal & Ors., 1992 AIR 604***, while considering the Application under Section 482 of Cr.P.C., 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.”

13. In the light of the above parameters laid down and by applying the same to the present case *prima facie* case is made out against the present Applicant. In view of that, the

Application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **rejected**.

14. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)

S.D.Bhimte