



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

CRIMINAL APPLICATION (APL) NO. 685 OF 2025

1. Meet Harish Sugandh,
Age about 16 Yrs., Occ. Student,
R/o Plot No. 97, Near Bhima
Dawarkhana, Bagadganj Nagpur-
440008.
2. Harish Bhagawandas Sugandh,
Age about 57 Yrs., Occ. Business,
R/o Plot No. 97, Near Bhima
Dawarkhana, Bagadganj Nagpur –
440008.
(Applicant No. 1, being a minor, is
represented through his natural
guardian father, i.e., Applicant
No. 2).
3. Manish Hiralal Sugandh,
Age about 24 Yrs., Occ. Student,
R/o Plot No. 97, Near Bhima
Dawarkhana, Bagadganj Nagpur –
440008.
4. Jyoti Naresh Sugandh,
Age about 47 Yrs., Occ. Housewife,
R/o Near Nagoba Mandir, Bagadganj
Nagpur – 440008.

APPLICANTS

Versus

1. State of Maharashtra,
Through PSO Lakadganj.

2. Preeti Ishwar Sugandha,
Age about 44 Yrs., Occ. Housewife,
R/o Plot No. 97, Near Bhima
Dawarkhana, Bagadganj Nagpur –
440008.

NON-APPLICANTS

Mr. G.S. Balpande, Advocate for the Applicants.
Mr. N.H. Joshi, APP for the Non-applicant No.1/State.
Mr. N.M. Mishra, Advocate for the Non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 28th JANUARY, 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 Applicants under Section 528 of the Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing of the First Information Report in connection with Crime No.221/2025 registered with Police Station Lakadganj, District Nagpur City for the offence punishable under Sections 49, 115(2), 118(1), 352 read with

Section 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and consequent proceeding arising out of the same bearing R.C.C. No.3699/2025 pending before the 16th C.J.J.D & J.M.F.C Court No.3, Nagpur and JCC No. 450/2025 pending before the Juvenile Justice Board, Nagpur.

4. The crime is registered on the basis of a report lodged by the Non-applicant No.2. The co-accused Naresh Sugandh is the brother-in-law of the Non-applicant No.2 and the present Applicants are the family members of said Naresh. There was a dispute between the Non-applicant No.2 and her brother-in-law Naresh on account of property and several offences are registered on the basis of the report lodged by them against each other. As per the allegations, on 19.03.2025 her husband was about to go outside, and therefore, he went near the car, at that time her son was also accompanied him but co-accused Naresh Sugandh, his son Laksh started assaulting her son. Her husband intervened but he was also assaulted. When she intervened she was also assaulted by the co-accused who was having screw driver in his hand. She sustained the injury due to assault by co-accused Naresh. As far as the present

Applicants are concerned, it is alleged that they were instigating the other co-accused and on their instigation the other co-accused was assaulting her. On the basis of the said report Police have registered the crime against the present Applicants.

5. Heard learned Counsel for the Applicants, who submitted that, due to previous dispute between the parties on account of property dispute all the family members were implicated in the alleged offence. He submitted that, as far as the assault is concerned, no specific role is attributed against the present Applicants. Their mere presence is not sufficient to infer that they were sharing common intention or common object, except the presence there is no overt act attributed to them. He also invited my attention towards the statements of the witnesses which are recorded during the investigation and submitted that stereo type statements of the witnesses also nowhere discloses any overt act attributed to the present Applicants. As far as the instigation is concerned, which is general, omnibus and vague in nature. In view of that, no *prima facie* case is not made out and forcing them to face the trial

would be an abuse of the process of law. In view of that, the Application deserves to be allowed.

6. *Per contra*, learned APP and learned Counsel for the Non-applicant No.2 strongly opposed the said contentions and submitted that, considering that all the Applicants alongwith other co-accused came at the spot, sharing common intention and the present Applicants were instigating the other co-accused for assaulting, in which the Non-applicant No.2 has received the injuries. Thus, *prima facie* case is made out against the present Applicants. In view of that, the Application deserves to be rejected.

7. On hearing both the sides and on perusal of the entire investigation papers it reveals that, there is a previous dispute between the two brothers on account of property. The husband of the Non-applicant No.2 and the other co-accused Naresh are the brothers and the dispute arose between them was on account of the property. It further reveals that, various previous complaints were also filed against each other which arises out of the previous dispute on account of property. As far as the recitals of the FIR and statements of the witnesses in the

present case are concerned, admittedly the allegations against the present Applicants to the extent that they were present on the spot of incident and they were sharing the common intention or common object but on perusal of the statements nowhere it reveals that they came at the spot by sharing the common intention. Mere their presence is not sufficient to infer that they were sharing the common intention when there is no overt act attributed to them. As far as the allegation of abetment is concerned, which is also general and omnibus in nature. No specific sentences are uttered by any of the Applicants. It is apparent that, on the basis of general and omnibus allegations and being they are the family members of the other co-accused they are implicated in the alleged offence due to the previous dispute.

8. In the light of the observations of the Hon'ble Apex Court in the case of *State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp.(1) SCC 335*, wherein following principles / guidelines are laid down by the Hon'ble Apex Court for quashing of the FIR, 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.”

9. In view of above parameters laid down by the Hon’ble Apex Court, *prima facie* case is not made out against

the present Applicants, and therefore, 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. 221/2025 registered with Police Station Lakadganj, District Nagpur City for the offence punishable under Sections 49, 115(2), 118(1), 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and consequent proceeding arising out of the same bearing R.C.C. No.3699/2025 pending before the 16th C.J.J.D & J.M.F.C Court No.3, Nagpur and JCC No. 450/2025 pending before the Juvenile Justice Board, Nagpur, are hereby quashed and set aside to the extent of the present Applicants.
10. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)