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

CRIMINAL APPLICATION (APL) NO.710 OF 2025

1. Ramesh Jagdeo Fale,
Age : 75 Years,
Occupation : Agriculture,
2. Avinash Ramesh Fale,
Age : 47 Years,
Occupation : Agriculture,
3. Yogesh Ramesh Fale,
Age : 37 Years,
Occupation : Agriculture,
All are R/o. Ward No.02,
At Post Agar, Taluka Akola,
District Akola - 444 001.
4. Ramdas Motiram Dhore,
Age : 55 Years,
Occupation : Agriculture,
At Post Khambora,
Tahsil and District Akola - 444 001.

.... APPLICANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Ural Police Station, Akola.
2. Sachin Ganeshrao Sangale,
Age : 39 Years,
Occupation : Retired,
R/o At Post Agar,
Taluka Akola,
District Akola - 444 001.

....NON-APPLICANTS

Mr. G. B. Mate, Advocate for applicants.
Mr. A. M. Joshi, APP for non-applicant No.1/State.
Mr. Sunil V. Kulkarni, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/02/2026

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ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. Heard finally with the consent of the learned Counsel for the applicants, learned APP for the non-applicant No.1/State and learned counsel for the non-applicant No.2.

4. Present application is preferred by the applicants for quashing of the FIR in connection with Crime No.108/2020 registered with Police Station Ural, District Akola for the offence punishable under Sections 294, 323 read with Section 34 of the Indian Penal Code and consequent proceeding arising out of the same bearing RCC No.113/2020 pending in the Court of Judicial Magistrate First Class, Balapur.

5. After registration of the crime, the investigating agency has carried out the investigation and recorded the relevant statements of the witnesses and after completion of the investigation submitted charge sheet.

6. Heard learned counsel for the applicants, who submitted that regarding the same incident two cross-complaints are filed. Present applicants are arraigned as an accused in Crime No.108/2020. He invited my attention towards the statement of the eye witness and submitted that this eye witness

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shows that both party members were assaulting each other due to the dispute between them and he has rescued the said quarrel. He submitted that even accepting the allegation as it is, it is not substantiated by the medical certificate and therefore, no *prima facie* offence is made out against the present applicants as far as the offence under Section 323 of IPC is concerned. In view of that, the application deserves to be allowed.

7. Per contra, learned APP strongly opposed the said contention and submitted that the allegation regarding the assault by the applicants is made out and substantiated by the eye witnesses also. There is a *prima facie* material as far as the offence under Section 323 of the IPC is concerned. In view of that, the application deserves to be rejected.

8. Learned counsel for the non-applicant No.2/ complainant has also endorsed the same contention.

9. After hearing both the sides and on perusal of the investigation papers, it reveals that regarding the said incident two complaints are filed, one Crime No.108/2020 and another was Crime No.215/2019. As per the allegations in the FIR, the alleged incident has taken place on 20.07.2019 at about 09.00 to 10.00 p.m. It reveals from the recitals of the FIR that due to the previous enmity, the said incident occurred and both party

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members have assaulted each other. The said incident is also witnessed by one Kacharulal Onkar Sangale, who has also narrated that both party members were assaulting each other in the said scuffle. Admittedly, regarding the said incident, the present applicants have immediately lodged the FIR which is registered vide Crime No.215/2019. However, present report came to be lodged after approximately after 6 to 10 months i.e. on 11.05.2020 and no explanation as to the delayed FIR is put forth. The allegation is also not substantiated by any medical certificate even though there is an allegation that the complainant was assaulted by four persons.

10. As far as the allegations regarding the obscene abuses are concerned which is not attracted as observed by the Hon'ble Apex Court in the case of **N. S. Madhanagopal and another vs K. Lalitha** reported **(2022) 17 SCC 818**, wherein the requirement is that the words which should involve some lascivious elements arousing sexual thoughts which are absent in the present case. By referring the judgment of **N. S. Madhanagopal and another vs K. Lalitha** in **Om Parkash Ambadkar Vs. The State Maharashtra and Ors.** reported in **MANU/SC/0134/2025** wherein it is held 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

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lacking in the case. No one has spoken about the obscene words.” There is no specific allegation that who has uttered the obscene words. In view of that, the provision under Section 294 is also not attracted.

11. Considering the circumstances that the complaint came to be lodged after delay of 10 months without assigning any explanation as to the delayed FIR. The statements are omnibus, vague in nature regarding the role of each of the applicants and it further reveals that both party members were assaulting each other during the quarrel, no *prima facie* case is made out against the present applicants.

12. By applying the parameters of the Hon’ble Apex Court while considering the quashing the application in **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, which is produced 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.

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(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."

No *prima facie* case is made out. In view of that, application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The FIR in connection with Crime No.108/2020 registered with Police Station Ural, District Akola for the offence punishable under

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Sections 294, 323 read with Section 34 of the Indian Penal Code and consequent proceeding arising out of the same bearing RCC No.113/2020 pending in the Court of Judicial Magistrate First Class, Balapur are hereby quash and set aside to the extent of the present applicants.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)

Sarkate.