



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

CRIMINAL APPLICATION (APL) NO. 755 OF 2025

1. **Anil s/o Vasudeo Dhote**
Aged about 51 years,
Occupation : Agriculturist,
R/o Amanatpur, Takoda,
Tah. and Dist. Akola

APPLICANT

// V E R S U S //

1. **State of Maharashtra,**
Through its Police Station Officer,
Police Station Dabki Road,
Akola, Tah. and Dist. Akola
2. **XYZ (Victim in Crime No.08/2025),**
Registered with Police Station Dabki
Road, Akola Tah. and District
Akola

NON-APPLICANTS

Ms V.R. Deshpande, Advocate for the applicant.
Mr. H.D. Dubey, APP for non-applicant No.1/State.
Mr. S.C. Sirsat, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 16.01.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. The present application is preferred by the applicant under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (for short, 'BNS') for quashing of the First Information Report in connection with crime No.08/2025 registered at Police Station Dabki Road District Akola for the offences punishable under Sections 64, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and under Section 3(1)(w)(i), 3(1)(w) (ii), 2(2) and 3(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and charge sheet bearing No.29/2025.

4. The crime is registered on the basis of the report lodged by the informant on an allegation that she was acquainted with the present applicant as once she met him. On 04.01.2025 when she was standing and waiting for convenience at that time present applicant approached to her and disclosed to her that he will drop her at Amanatpur phata but he has not taken her at the Amanatpu rphata and taken her in agricultural field at Takli and

subjected her for the forceful sexual assault. On the basis of the said report police have registered the crime against the applicant.

5. Heard learned counsel for the applicants who submitted that as family members of the informant and present applicant belongs to two different political parties and therefore, out of political rivalry he is implicated in the alleged offence. He further submitted that story narrated by the victim itself is improbable, unacceptable and liable to be discarded at the prima-facie itself. He invited my attention towards spot panchanama as well as statement of daughter of the victim and submitted that the recitals of the FIR of the informant that only once she met with the present applicant itself falsified by the statement of the daughter of the victim who stated that present applicant used to visit the house to collect the tiffin for the grand parents and therefore, she was also acquainted with the present applicant. Thus, he submitted that recitals of the FIR that only once she met present applicant itself is falsified by the statement of the daughter of the victim. He further invited my attention towards the medical certificate and submitted that though alleged incident has taken place in agricultural field, spot panchanama nowhere shows any

marks as to the incident in the agricultural field. No any injury found on the person of the victim. FIR lodged after five days of the incident, for which, no explanation is put forth. Sufficiently shows the false implication of the present applicant and delayed FIR is not explained at all. For all above these grounds, the application be deserves to be allowed.

6. Per contra, learned APP strongly opposed for the same and submitted that the statement of the victim at this stage sufficient to attract the offence. There is nothing on record to show that there was political rivalry and out of political rivalry the applicant is implicated in the alleged offence.

7. Learned counsel for the victim reiterated the said contentions and submitted that considering the statement of the victim and there was no crop in the agricultural field therefore, the question of damage to the crop does not arise. Injuries are not sine qua non not attract the offence punishable under Section 376 of the IPC. The women who belongs to the scheduled caste and scheduled tribes was subjected for the forcible sexual attack and therefore, the application deserves to be rejected.

8. After hearing both the sides and on perusal of the entire investigation papers the story narrated by the victim is that she was acquainted with the present applicant as she met the present applicant once on 04.01.2025 the present applicant took her on his motorcycle on the pretext of dropping her at Amanatpur fata and not taken her at Amanatpur Fata and taken her in the agricultural field and subjected for the forcible sexual assault. The alleged incident has taken place on 04.01.2025 where as the FIR is lodged on 09.01.2025. As far as the FIR is concerned, there is no single explanation as to delayed FIR. The statement of the daughter of the victim also recorded during investigation which shows that the present applicant used to visit the house of the informant for collecting the tiffin and therefore, all the family members were acquainted with the present applicant. The spot panchanama shows that the alleged spot of incident is surrounded by the other agriculture field. Admittedly the alleged incident has occurred at about 10 to 10.30 a.m. There is no single eye witness who came before investigating agency to show that they have seen as a victim or applicant together on the date of incident. Thus, it is evident that except bare statement of the victim which is not supported by the medical

evidence and any statements of the witnesses the applicant/accused is prosecuted for the offence.

9. In the light of the above facts and circumstances the contention of the learned counsel for the applicant that he is implicated in the alleged offence due to political rivalry cannot be ruled out. Admittedly the FIR is delayed as it is lodged after five days. No explanation is put forth for the said delay. The story narrated by the victim itself appears to be improbable and unacceptable especially in the facts and circumstances that though she was acquainted with the present applicant she has not disclosed the same in the FIR and the statement of the daughter of victim falsified. Thus, considering the story narrated by victim appears to be improbable.

10. Applicant is further charged for the offence punishable under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2) and 3(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Admittedly there is no statement that though the applicant was knowing that she belongs to scheduled caste and scheduled tribe and as she belongs to the scheduled

caste and scheduled tribe she was taken by the present applicant to humiliate and insult her and subjected her for the forcible sexual assault. As observed by Hon'ble Apex Court in the case of ***Shajan Skaria Vs. The State of Kerla*** in **Criminal Appeal No.2622 of 2024** decided on 23.08.2024 that Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of Scheduled Caste and Scheduled Tribe unless there is an intention to humiliate such member for the reason that she belongs to such caste. In other words, it is not the purport of the Act, 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 attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/

ST communities for the reason of their caste status. It is further observed by the Hon'ble Apex Court that the term 'humiliation' as it appears in Section 3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members.

11. In view of the above observation of Hon'ble Apex Court, in the present case, there is absence of the fact that though the applicant knowing that victim belongs to scheduled caste and with intention to humiliate her and taken her for forceful sexual assault. Thus, the offence under the Atrocities Act is also not made out in the present case.

12. Considering the story narrated by the informant, it appears to be improbable and unacceptable and therefore, it is difficult to accept the same at the prima-facie stage itself. As observed by the Hon'ble Apex Court in the case of **State of Haryana and others vs. Bhajanlal and others** reported in **1992 Supp(1) Supreme Court Cases 335**, where it is stated as under:-

“ (a) 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;

(b) where the allegations in the First information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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. Thus, allegation made in the FIR, upon careful perusal appear to be inherently improbable and devoid of material substance. It is difficult to accept that woman of mature understanding who is fully aware and acquainted with the present applicant has not made any hue and cry when she was subjected to sexual assault and her presence was not noted though the alleged incident has taken place during the day time. It is difficult to accept that she not sustained any injury though she was subjected for the forceful sexual assault against her consent on hard and rough surface. The offence under the Atrocities Act is not made out. In view of that this is a fit case to quash the FIR as well as charge-sheet.

14. In view of that I proceed to pass following the order:-

ORDER

(i) The Criminal Application is allowed.

(ii) First Information Report in connection with crime No.08/2025 registered at Police Station Dabki Road District Akola for the offences punishable under Sections 64, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and under Section 3(1)(w)(i), 3(1)(w) (ii), 3(2) and 3(v) of the

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and charge sheet bearing No.29/2025 are hereby quashed and set aside to the extent of applicant - Anil Vasudeo Dhote.

15. Criminal Application stands disposed of in the above terms.

(URMILA JOSHI PHALKE, J.)

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