



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

CRIMINAL APPLICATION (APL) NO.757/2025

(Sayed Faruque Sayed Karim and others Vs. The State of Maharashtra, through Police Station Officer, Police Station Darwaha, Tq. Darwaha and Distt. Yavatmal and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.S. Deshpande, Advocate for the applicants.
Mr. A.M. Kadukar, A.P.P. for the non-applicant No.1/State.
Mr. A.Z. Quazi, Advocate h/f. Mr. N.S. Khandewale, Advocate for the non-applicant No.2.

CORAM: MRS. VRUSHALI V. JOSHI, J.

DATED: 24.4.2026.

The applicants are calling in question the legality of the F.I.R. and criminal proceeding which is initiated vide Crime No.0488/2020, registered by the non-applicant No.1, upon a report dated 15.6.2020 lodged by the non-applicant No.2 thereby the applicants are being charged for the offence punishable under Sections 353, 143, 145, 147, 149, 188, 269 and 270 of the Indian Penal Code, 1860 (for short "I.P.C.") read with Section 51(B) of the Disaster Management Act, 2005 and Section 11 of the Maharashtra COVID-19 Regulations, 2020 and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act, 1951.

2. It is the prosecution's case that the complainant along with his squad and the Tahsildar, Darwaha, Police Staff and Medical Staff had been to take samples of the deceased namely Mohd. Iqbal Mohd. Ayub who died due to Corona Virus at the residence of the deceased Ward No.9, Bhurekha Nagar, Darwaha on 13.06.2020 at 11.30 a.m. It is alleged that at that time, applicant No.1 Syed Farooq was present

along with 20 to 30 people who had illegally gathered. The family members of the said deceased were asked by the complainant accompanied with the other government officials to take the body to the government hospital, but the applicant along with other 20 to 30 people tried to take the dead body to the cemetery and argued saying that complainant along with squad should leave the premises and thus, the complainant along with his squad has been obstructed while performing public duty by the applicants and they also gave threats and thereby applicants have violated the order of the District Collector, Yavatmal and the complaint was lodged. The F.I.R. is registered on the said complaint. The authorities have filed the final report/charge sheet No.96/2022 dated 6.6.2022.

3. The learned Advocate for the applicants has stated that after perusal of the material on record it is clear that there is no material against the present applicants considering the allegations as raised in relation to the impugned F.I.R. The statement of witnesses shows that they are interested witnesses and no statement of independent witness has been recorded.

4. It is argued by the learned Advocate for the applicants that the Government of Maharashtra, Department of Home, vide its Government Resolution dated 20.9.2022 had passed a resolution for withdrawal of all crimes registered for defying the final order during Covid Pandemic. Such offence under Section 188 of I.P.C. should either be filed alone or under the Pandemic Act, Disaster Management Act, or certain sections of the Maharashtra Police Act. Said Government Resolution provides time frame within which the cases should have been registered i.e. 21.3.2020 to 31.3.2022. Hence,

prayed to set aside the F.I.R. and charge sheet against these applicants.

5. The non-applicant No.2 opposed the application by filing reply stating therein that the non-applicant No.2 was performing his duties during the Covid period. The applicants are involved in offence punishable under Sections 353, 143, 145, 147, 149, 188, 269 and 270 of the Indian Penal Code, 1860 (for short "I.P.C.") read with Section 51(B) of the Disaster Management Act, 2005 and Section 11 of the Maharashtra COVID-19 Regulations, 2020 and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act, 1951. The resolution dated 20.9.2022 prescribes mechanism for withdrawal of cases arising out of Section 188 of I.P.C. either alone or along with other offences. As per said Government Resolution three members Committee has been constituted to look into all such cases which can be withdrawn. The said Committee would take an appropriate decision in this regard. Hence, prayed to dismiss the application.

6. Heard both sides and perused the record.

7. The offence under penal provisions of I.P.C. is registered along with the offence under the Disaster Management Act and COVID-19 Regulations. For the offence punishable under Section 353 of I.P.C. the essential ingredient of the offence is that there must be an assault or use of criminal force to deter a public servant from discharging his official duty, which in this case does not appear to be attracted. Further, it is necessary to consider whether the offence under the provisions of other sections of I.P.C. is attracted in this case.

8. For attracting Section 149 of I.P.C. the essential ingredient is commission of an offence by any member of unlawful assembly and

such offence must have been committed in prosecution of common object of that assembly and must be such as that member of such assembly knew that the offence is likely to be committed.

9. In this case people gathered not for commission of any offence but to console the family where the death was caused. There was no any intention to commit any offence by the applicants. The Government of Maharashtra, Department of Home, vide its Government Resolution dated 20.9.2022 had passed a resolution for withdrawal of all crimes registered for defying the final orders during the pandemic. The offence under Section 188 of I.P.C. is registered against these applicants along with other offences. The offence under Sections 353, 143, 145, 147, 148 and 149 of I.P.C. is not made out against these applicants and in view of the Government Resolution dated 20.9.2022 the Government has decided to withdraw all the crimes during that period. The offence is registered on 15.6.2020. As it is during the period of Covid and the period mentioned in the Government Resolution covers the said period, this is a fit case to withdraw the offence. Hence, the case is made out to set aside the F.I.R., charge sheet and R.C.C. No.282/20222 filed against these applicants only. Hence, the following order:-

ORDER

- i) The application is allowed.
- ii) The F.I.R., charge sheet and R.C.C. No.282/2022 is quashed and set aside against the present applicants only subject to their depositing costs of Rs.5,000/- each with the Public Welfare Account maintained with Union Bank of India, High Court Branch, Civil Lines, Nagpur bearing Account No.129712010001014 and IFSC Code

UBIN0812978 and producing the receipt thereof on record within two weeks.

iii) The application stands disposed of in the above terms.

(MRS. VRUSHALI V. JOSHI, J.)