



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

CRIMINAL APPLICATION (APL) NO.785/2025

(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.0489/2020, 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, 332, 324, 143, 145, 147, 149, 151, 152, 153, 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 along with Section 3 of the Prevention of Damage to Public Property Act, 1984.

2. It is the prosecution's case that the complainant, Tahsildar Darwaha, lodged report with the Investigating Officer alleging therein that, in view of the notification dated 13.3.2020 issued by the Public Health Department curfew was declared in Darwaha City to avoid infection of Covid-19 Virus till midnight of 30.06.2020.

3. On 10.6.2020, Arif Khan, resident of Ward No.9, Inamdar Pura, Darwha was infected with Corona Virus and as per the order of the Collector, Yavatmal, the above area was declared as a containment zone vide order dated 12.6.2020.
4. On 14.6.2020 around 03.15 p.m. the non-applicant No.2 Chief Officer, Nagar Parishad, Darwha, along with other staff members and Manoj Kedare, Police Officer and his staff were patrolling in said zone near the house of Mirza Beg. At that time, the applicant No.1, Syed Farooq along with other applicants and other 40 to 50 persons had gathered illegally and came towards the said containment zone. The police officials and the Chief Officer requested them to leave the said area and not to gather in containment zone. The applicants shouted that there was no water, food grains and there is no hygiene in the said area, therefore they are not able to fulfill their day-to-day needs. The non-applicant No.2 told them that if they have any complaint they should give it in writing. However, suddenly the mob started pelting stones at the government officials and caused damage to the public property.
5. One driver namely Ajij Sheikh suffered injury due to pelting of stone by the mob. The Police Officer Darwha suffered injury over left leg, while Ashish Udupure and one Home Guard suffered injury over their right hand. The applicants also pelted stones on police van, thereby causing damage to the government vehicle. Accused Sayyed Faruque along with 40 to 50 other persons with him gathered at the containment zone and tried to violate the law and public order and also injured the police officials.

6. 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.

7. 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, 332, 324, 143, 145, 147, 149, 151, 152, 153, 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 along with Section 3 of the Prevention of Damage to Public Property Act, 1984. 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. Moreover, the injuries are caused to the public servants and they are obstructed

while discharging their duties. So also the damage to the public property is caused by the applicants. Hence, prayed to dismiss the application.

8. The learned A.P.P. opposed the application stating that the offence under the I.P.C. is made out. There is injury caused to the public officials while discharging their duties along with damage to public property. Therefore, as per the said Government Resolution the criminal proceedings cannot be set aside. Hence, prayed to reject the application.

9. Heard both sides and perused the record.

10. 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 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.

11. 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. Offence under Section 324 of I.P.C. is registered, in pelting of stones some of the persons got injured which requires trial.

12. There is no dispute that the resolution is passed by the Government of Maharashtra to withdraw the cases which are

registered during the period of Covid-19. Clause 3(a) of said resolution provides that if there are assaults on the government officials and damage to the public property then this resolution will not be applicable.

13. In this case, there is an assault on the government officials while they went on the spot to discharge their official duty. The mob has pelted stones and 3 to 4 persons got injured in such pelting of stones. The mob also caused damage to the public property i.e. police vehicle. Hence, the government resolution is not applicable in this case. As the other offences under I.P.C. are registered and *prima facie* it appears to be attracted, this is not a fit case to quash the F.I.R. Hence, the application is rejected.

(MRS. VRUSHALI V. JOSHI, J.)