



Judgment

25 apl1248.25

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

CRIMINAL APPLICATION APL NO.1248 OF 2025

Ashish Sunil Deshmukh,
age : 36 years, occupation: service as
Assistant Security and Enforcement
Officer, MSEDCL, Flying Squad,
Buldhana, r/o house No.36, New
Tapadia Nagar, Pathak Layout,
Deshmukh Floor Milk, Ramdas Peth,
Akola. **Applicant.**

:: VERSUS ::

1. The State of Maharashtra,
through Police Inspector,
Chikhali Police Station,
taluka Chikhali, district Buldhana.

2. Nikita Bhagwat Kale,
aged about 30 years, occupation:
household, House No.
168/1E/22B behind Ram Sales,
Jalna Road, Chikhali, taluka
Chikhali, district Buldhana. 443 201.

3. Prashant Uttamrao Kalore,
age: 55 years, occupation: Additional
Executive Engineer,
MSEDCL, Chikhali Sub-
Division, taluka Chikhali, district
Buldhana. **Non-applicants.**

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Smt.Kajal Sethiya, Counsel for the Applicant.

Shri N.B.Jawade, APP for NA No.1/State.

Shri D.M.Kale, Counsel for NA No.3.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **16/03/2026**

ORAL JUDGMENT

1. Heard learned counsel appearing for the respective parties

Admit. Heard finally by consent.

2. By this application, the present applicant is seeking quashing of FIR in connection with Crime No.554/2025 registered with non-applicant No.1 police station for offences under Sections 78(2), 333, and 351(2) of the BNS, 2023 and consequent proceeding arising out of the same bearing chargesheet No.204/2025.

3. The crime is registered on the basis of a report lodged by non-applicant No.2 (the complainant) on allegations that she is residing along with her family members. Her husband is serving in Army. On 17.7.2025, at about 2:30 pm, when she was in the house, the present applicant, who is officer of the MSEDCL, has visited her house and has not shown his Identity Card and

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disclosed her that he has to check electric meter and insisted her to give her mobile number and, thereafter, when she denied the same, he has abused her and also threatened her.

On the basis of the said report, the police have registered the crime against the present applicant.

4. Leaned counsel for the present applicant submitted that prior to this FIR, the present applicant has conducted a raid at the house of the complainant and it was found that the complainant and her family members have committed theft of electricity and, therefore, FIR vide Crime No.646/2025 under Section 135 of the Electricity Act, 2003 was registered against husband of the complainant and to give a counter blast to the said complaint, this FIR came to be lodged against the present applicant. She submitted that even accepting allegations as it is, no offence is made out against the present applicant as far as outraging of modesty of stalking is concerned. The ingredients of the offence are also not made out. In view of that, the application deserves to be allowed.

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5. Learned APP for the State has strongly opposed the said contentions and submitted that recital of the FIR sufficiently shows intention of the present applicant and, therefore, the application deserves to be rejected.

6. On hearing both sides and perusing the entire investigation papers, it reveals that the present applicant is officer of the MSEDCL and he has visited the house of the complainant on 17.7.2025 at about 2:00 pm and it was found that the electric meter of the complainant is in the name of her husband and they have committed theft of the electricity. Therefore, an action was taken by lodging the report vide Crime No.646/2025 and subsequently the present FIR came to be lodged on 18.7.2025 alleging outraging of modesty. The allegation levelled against the present applicant is that he was insisting her to share her mobile number and attempted to get acquaintance with her and, therefore, the investigating agency has registered the offence and after completion of the investigation, submitted chargesheet against the present applicant.

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7. As far as the offence under Section 78 of the BNS is concerned, it talks about “stalking.” The said Section reads as under:

“78. Stalking. (1) Any man who,

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication, commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that,

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.”

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8. Thus, the allegation levelled against the present applicant is that when he had been for detection of the crime, the alleged incident has occurred. Therefore, the act of the present applicant covers under proviso (i) to Section 78 of the BNS which shows that such conduct shall not amount to stalking if the man who pursued it proves that it was pursued for the purpose of preventing or detecting crime.

9. In the present case, the present applicant has visited the house of the complainant to detect the crime of commission of theft of the electricity and, therefore, the offence under Section 78(2) of the BNS is not made out.

10. Admittedly, "modesty" is not defined in the IPC. However, it refers to indecent propriety of a woman and conduct. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term

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which may extend to three years, and also with fine. The same ingredients to attract the offence must be fulfilled.

11. The act of the present applicant covers under proviso given under Section 78 of the BNS and, therefore, no offence is made out against him. It is attempted to give a counter blast to the complaint and to the action taken by officials of the MSEDCL. In view of that, no *prima facie* case is made out against the present applicant.

12. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read 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;

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(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;

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(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. After applying the above parameters laid down in the above case, no *prima facie* case is made out against the present applicant. It reveals that to achieve personal vendetta, this FIR came to be lodged by the complainant.

14. In this view of the matter, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(1) The criminal application is **allowed**.

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(2) FIR in connection with Crime No.554/2025 registered with non-applicant No.1 police station for offences under Sections 78(2), 333, and 351(2) of the BNS, 2023 and consequent proceeding arising out of the same bearing chargesheet No.204/2025 are hereby quashed and set aside to the extent of the present applicant.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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