



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

CRIMINAL APPLICATION (APL) NO. 1360 OF 2025

1. Aniket Manohar Wakpanjar,
Aged about 24 yrs., Occ. Education,
2. Bhushan s/o Rajendra Khandare,
Aged about 22 yrs., Occ. Student,
3. Rohit s/o Suresh Raibole,
Aged about 22 yrs., Occ. Student,
4. Ashish s/o Dhanraj Mohod,
Aged about 29 yrs., Occ. Student,
5. Shubham Vijay Raibole,
Aged about 29 yrs., Occ. Student,
6. Ajay s/o Ashok Abhyankar,
Aged about 24 yrs., Occ. Student,
7. Shubham s/o Ashok Abhyankar,
Aged about 27 yrs., Occ. Student,
8. Sandesh s/o Nandu Sirsat,
Aged about 18 yrs., Occ. Student,
9. Nikhil s/o Shrikrishna Raibole,
Aged about 23 yrs., Occ. Student,
10. Yash Baliram Dhole,
Aged about 19 yrs., Occ. Student,
11. Shreyas Shrikrishna Samdure,
Aged 21 yrs., Occ. Student,

12. Aditya Manohar Wakpanjar,
Aged about 22 yrs., Occ. Student,
13. Adiya Balkrishna Raibole,
Aged about 17 yrs., Occ. Student,
14. Nived Nandu Raibole,
Aged about 17 yrs., Occ. Student,
15. Anurag Siddarth Wankhede,
Aged about 34 yrs., Occ. Student,
16. Sunil Raghunath Rambole,
Aged about 42 yrs., Occ. Student,
All R/o Pandhari (Khanampur)
Taluka Anjangaon Surji District
Amravati.

APPLICANTS

Versus

1. State of Maharashtra,
Thr. Police Station Officer,
Anjangaon District Amravati (Rural). **NON-APPLICANT**
2. Arjun s/o Sadashiv Mundhe **DELETED**

Mr. P.R. Atkare, Advocate a/w Mr. S.G. Karmarkar, Advocate for
the Applicants.

Ms. M.A. Barabde, APP for the Non-applicant No.1/State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 10th FEBRUARY, 2026.

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Counsel for the Applicants and learned APP for the Non-applicant No.1/State.

3. The present Application is preferred by the Applicants under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing of the First Information Report in connection with Crime No.160/2024 registered with Police Station Anjangaon Surji, District Amravati for the offence punishable under Sections 188, 186, 109 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, and consequent proceeding arising out of the same bearing RCC No. 119/2025 pending on the file of Judicial Magistrate First Class, Anjangaon Surji, District Amravati.

4. The crime is registered on the basis of the report lodged by the Police Naik Arjun Sadashiv Mundhe alleging that the Applicants breached the order passed by the Sub Divisional Magistrate, Daryapur, and therefore, requested for the action against them. It is further submitted that, on 31.01.2024 in

Village Pandhri, Tal. Anajangaon Surji some of the villagers have installed a temporary gate and named it by posting the photo of Dr. Babasaheb Ambedkar. Due to this act, there was a dispute between two communities of the society. On 06.03.2024, Gram Sabha was called and the peoples from one of the communities kept Whats App status on their mobile, that they are leaving the Village, therefore there was every likelihood of breach of public peace due to the dispute between the two communities of the society. Therefore, as there was strong apprehension of breach of public tranquility, the Sub Divisional Magistrate, Daryapur passed an order by invoking Section 144 of Cr.PC., and thereby declared curfew and prohibition of assembly from 06.03.2024 to 08.03.2024. The order passed by the Sub Divisional Magistrate was communicated to the public at large through megaphone and it was also informed that in case of breach of order, legal action would be initiated against the guilty persons. Despite the same, the present Applicants were the members of the Mob who gathered together by disobeying the order of the Sub Divisional Magistrate and thereby committed an offence. On the basis of the said report Police have registered the crime against the present Applicants.

5. Heard learned Counsel for the Applicants who submitted that, Section 188 of IPC deals with disobedience to order duly promulgated by public servant and an order promulgated by a public servant lawfully to be published, which is absent in the present case. He submitted that, as far as promulgation is concerned, there is no evidence collected by the investigating agency to show that it was communicated to the public at large, and therefore, the ingredients of the offence are not made out.

6. In order to attract Section 188 of IPC the ingredients which are required are not established by the prosecution, and therefore, no *prima facie* case is made out. He submitted that, as far as Section 186 of IPC deals with obstructing public servant in discharge of public functions, there are no specific allegations as far as the present Applicants are concerned and on the basis of omnibus, general and sweeping allegations, the Applicants are arraigned as an accused. In view of that, no *prima facie* case is made out against the present Applicants. He also invited my attention towards Section 37(1)(3) of the Maharashtra Police Act and submitted that, in view of Section

37(1)(3) the promulgation and the publication of the said order communicating to the public at large is required, which is absent in the present case, and therefore, *prima facie* offence is not made out against the present Applicants. Therefore, power under Section 482 of Cr.P.C. can be exercised to quash the proceeding against the present Applicants.

7. *Per contra*, learned APP strongly opposed the said contentions and submitted that the recitals of the FIR and the statements of witnesses itself shows that the same was published by way of megaphone, and therefore, the *prima facie* case is made out. The Applicants were the members of group, gathered together, disobeying the order which was already promulgated by the public servant, and therefore, the Application deserves to be rejected.

8. On hearing both the sides and on perusal of the entire investigation papers it reveals that, as there was prevention of disturbance of the public peace, the Sub Divisional Magistrate, Daryapur has issued an order and which allegedly promulgated. In order to attract Section 188 of IPC, the following ingredients have to be proved namely; (1) that

there must be an order promulgated by the public servant; (2) that such public servant is lawfully empowered to promulgate and (3) that the person with knowledge of such order and being directed by such order to abstain from doing certain act or to take certain order with certain property in his possession and under his management has disobeyed and for that such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed or danger to human life, health or safety or causes or tends to cause a riot or affray.

9. In the light of the above said requirements, if the allegations levelled against the present Applicants are concerned, only allegation is that they gathered together. As far as there was any attempt by them and the act of said mob was annoyed to any person or there was any risk to the person lawfully employed or there was any danger to human life, health or safety is nowhere stated by any of the witnesses. As far as the promulgation is concerned, the statements of witnesses nowhere shows that it was published and it was communicated to the public at large and the persons who gathered in the

Village who were having knowledge of such order and they have intentionally disobeyed the said order. Thus, in absence of ingredients it cannot be said that the *prima facie* offence is made out against the present Applicants. As far as the *prima facie* case is concerned, admittedly there is no specific allegation against the present Applicants that they have made any attempt to obstruct or to annoy anybody or has created or done certain act which creates a risk to any person lawfully employed or there was danger to human life, health or safety, and therefore, the powers under Section 482 of Cr.PC. are to be exercised for quashing of the FIR.

10. In the present case considering the parameters laid down by the Hon'ble Apex Court in the case of ***State of Harayana & Ors. Vs. Ch. Bhajan Lal & Ors., 1992 AIR 604***, which reads 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.

(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.”

11. In the light of the above parameters laid down by the Hon’ble Apex Court, it is a fit case wherein the powers can be exercised. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed**.
 - ii. The First Information Report in connection with Crime No. 160/2024 registered with Police Station Anjangaon Surji, District Amravati for the offence punishable under Sections 188, 186, 109 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, and consequent proceeding arising out of the same bearing RCC No. 119/2025, are hereby quashed and set aside to the extent of present Applicants.
- 12.** Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)