



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

CRIMINAL APPLICATION (APL) NO. 1399 OF 2025

APPLICANT :- Sujit Kumar Mukherjee,
Age 54 years, R/o Hajari Pahad,
P.S. Gittikhadan, Nagpur-440007.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra,
through the Investigation Officer,
Police Station, Wadi, District Nagpur.
2) Ms Diksha Vijay Kapse,
Age 30 years, R/o Ambazari Tekadi,
Near Ambedkar Statue, P.S. Ambazari,
Nagpur -440010.

Mr/Ms H.V. Thakur, Parth Ranade and Mugdha Mundle, counsels for applicant.
Mr. K.R. Lule, APP for respondent/State.
None for respondent No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATE : 06/03/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsel for the applicant and learned APP for the respondent/State.
3. Despite service of notice, none appears for respondent No.2.
4. The crime is registered on the basis of a report lodged by the non-applicant No.2 on an allegation that she was working at Bharat Petrol

Pump, Control Wadi, Nagpur with reference of one Aniket Ramteke, who is her neighbor. On 27/06/2023, she joined her service at the said petrol pump. Before joining the work, her oral interview about the work at the petrol pump was conducted by the present applicant, who is the proprietor of the petrol pump. At the time of joining the work, the present applicant gave instructions about the work and payment.

5. It is alleged that during the period of June 2023 to February 2024, the applicant used to tell her all the time customers had complained to him that we cannot see anything on the body of the female employees, while coming to work, they should apply makeup on their face as well as he used to make obscene comments with other female employees. When the informant informed brought this to the notice of the other employee supervisor working at Bharat Petrol Pump, Control Wadi, she was told that the present applicant was the proprietor and that she had to work according to his directions.

6. She further alleged that the present applicant used to comment on her and asked her to do things such as keeping the buttons of her shirt open, etc., and thereby attempted to outrage her modesty and committed an offence punishable under Section 509 of the Indian Penal Code, 1860

7. On the basis of the said report, police have registered the crime and carried out the investigation. After completion of the investigation, a charge-sheet was submitted bearing Regular Criminal Case No. 22 of 2025.

8. Heard learned counsel for the applicant, who submitted that by accepting the allegation as it is, by no stretch of imagination can it be said an offence under Section 509 of the IPC is made out. He invited my attention towards Section 509 of the IPC and submitted that the

ingredients required for constituting the said offence are that 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 which may extend to three years, and also with the fine.

9. By inviting the attention towards recitals of the FIR, he submitted that specific incident is not narrated by the non-applicant No.2. Moreover, the recitals of the FIR nowhere shows that what exact words were uttered by the present applicant, what act is done by him, or what type of gestures was made. Thus, the entire allegations nowhere constitute the offence as required under Section 509 of the Indian Penal Code.

10. He further submitted that there is no allegation regarding exhibiting of the document. Therefore, prima-facie offence is not made out against the present applicant. In view of that, FIR as well as the consequent proceedings deserves to be quashed and set aside.

11. Per contra, learned APP strongly opposed the said contention and submitted that, considering the allegations levelled against the present applicant, which shows that there was an intention to insult the modesty of a woman on the part of the present applicant. Therefore, the application deserves to be rejected.

12. On hearing both sides and on perusal of the recitals of the FIR, it reveals the allegation is to the extent that while she was working at the said Bharat Petrol Pump, she was asked to work according to the directions of the present applicant. It further appears that she has alleged that the incident occurred during the period of June 2023 to February

2023. Thus, general and omnibus allegations is levelled without specifying actual date or the specific date of the incident.

Furthermore, an attempt was made to show that there was a gesture or act intending to insult the modesty of a woman. Admittedly the term “modesty” is not define in the IPC. However, it refers to the indecent propriety of a woman and conduct. Section 509 of the IPC provides that 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 a woman, or introduces upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with the fine. The same ingredients necessary to attract the said offence must be fulfilled.

13. In the present case, admittedly general allegations are levelled against the present applicant without specifying any specific dates. No specific gesture or object is alleged to have been exhibited by the present applicant. There is no specific allegations as to what act actually committed by the present applicant to insult the modesty of the non-applicant No.2. As far as the uttering of the words is concerned, it is only a general allegation that he used to comment on her.

14. Thus, considering the entire allegations levelled against the present applicant, prima-facie offence is not made out. It is apparent that due to the issue of labels, this FIR came to be lodged against the present applicant. As no offence is prima facie made out from the entire investigation papers, the application deserves to be allowed.

15. By applying the parameters laid down in the Hon’ble Supreme Court of India in the case of *State of Haryana & Ors. Vs. Bhajan Lal & Ors.* reported in *AIR 1992 SC 604*, which reproduced 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 Act concerned (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 Act concerned,

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.

16. In view of the above facts and circumstances of the case, prima-facie case is not made out against the applicant. Hence, criminal application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] The criminal application is **allowed**.
- b] The Chargesheet bearing No. 22 of 2025 as well as Summary Criminal Case No. 2633 of 2025 pending before the Court of Hon'ble Judicial Magistrate, First Class, Nagpur, and the FIR No. 456 of 2024 dated 30/10/2024 registered at Police Station Wadi, District Nagpur for the offence punishable under Section 509 of the Indian Penal Code, 1860, are hereby quashed and set aside to the extent of present applicant only.

17. The criminal application is **disposed of**.

(URMILA JOSHI PHALKE, J.)