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

CRIMINAL APPLICATION APL NO.1833 of 2025

1. Mohammad Arshad Khan s/o
Mohammad Aijaz Khan, aged about-
37 years, occupation– business, r/o
Sadika Bad Coln Near Passport Office,
Mankapur, Nagpur-30.

2. Mohammad Zafar Iqbal s/o
Mohammad Ajijuol Haque, aged about
38 years, occupation- business, r/o
plot No.85, Gandhi Layout, Jafar
Nagar, Nagpur-13. ..... Applicants.

:: V E R S U S ::

1. The State of Maharashtra, through
Police Station Officer, PS Sadar, Taluka and
district Nagpur City, Nagpur.

2. Harbhajan Kaur w/o Iqbal Singh Vaan,
aged about 70 years, occupation:
household, r/o flat No.204, Utkarsh
Nirman, Mangal Bazar,
Sadar, Nagpur. ..... Non-applicants.

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Shri A.B.Mirza, Counsel for the Applicants
Shri A.M.Kadukar, APP for Non-applicant No.1/State.
None for the Non-applicant No.2.

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CORAM : URMILA JOSHI-PHALKE, J.
DATE : 05/02/2026

ORAL JUDGMENT

1. Heard learned counsel for the applicants and learned APP for the State. Despite service, none appears for non-applicant No.2 (the complainant) **Admit**. Heard finally by consent.

2. By this application, applicants are seeking quashing of the FIR in connection with Crime No.498/2023 registered for offences under Sections 294 and 506 read with 34 of the IPC and consequent proceeding arising out of the same bearing SCC No.14195/2024.

3. Learned counsel for applicants submitted that there was a previous dispute between applicants and the complainant on account of construction of house and, therefore, this FIR came to be lodged after one month of the incident without assigning any reason. He has also invited my attention towards recital of the N.C.Report filed on the same day i.e. 31.7.2023 wherein no such allegations as to abuses which are obscene are levelled. He submitted that after thought, this FIR came to be lodged without assigning any reason for delay. Thus, no *prima facie* case is made

out against applicants. In view of that, the application deserves to be allowed.

4. *Per contra*, learned APP for the State strongly opposed the said contentions and submitted that considering recital of the FIR, wherein filthy language is used by applicants to the complainant, a *prima facie* case is made out against applicants. In view of that, the application deserves to be rejected.

5. After hearing both sides and perusing the entire investigation papers and recital of the FIR, it reveals that applicants and the complainant are neighbours. Applicants are residing on the first floor. Whereas, the complainant is residing on the upper floor in the said building. There was a dispute between applicants and the complainant. The crime is registered on the basis of the report lodged the complainant alleging that she has made a complaint regarding illegal construction by applicants and on that count on 31.7.2023 she was abused by applicants as well as she was threatened. On the basis of the said report, the police have registered the against applicants.

6. After registration of the crime, the investigating officer has visited the alleged spot of the incident and drawn spot panchanama and recorded relevant statements of witnesses and after completion of the investigation, submitted chargesheet against applicants.

7. It is apparent that on 31.7.2023 applicants immediately lodged report and on the basis of which the N.C.Report was registered and after that, after one month, without assigning any reason as to delay, this FIR came to be lodged. Even accepting the allegations as it is, at its face value, at the most, it can be said that filthy language is used by applicants. To attract offence under Section 294 of the IPC, mere abuses are not sufficient.

8. The Hon'ble Apex Court, in the case of **Om Prakash Ambadkar vs. State of Maharashtra, reported in MANU/SC/0134/2025,** by referring earlier judgment in the case of **N.S. Madhanagopal and anr vs. K.Lalitha, reported in (2022), 17 SCC 818,** has observed as under:

> "It has to be noted that in the instance case, the absence of words which will involve some lascivious

> elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC".

9. It is further observed that, "mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case".

10. In view of the above requirements, if the facts and allegations are taken into consideration, admittedly, words, due to utterance of words, annoyance is created in public, are absent.

11. As far as Section 506 of the IPC is concerned, admittedly, there is no threatening to person with an injury or to person or reputation of property. However, it is apparent that due to dispute

between two neighbours, this FIR came to be lodged after one month of the incident without assigning any reason.

12. Thus, a *prima facie* case is absent in the present case to constitute the offence. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

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

(2) The FIR in connection with Crime No.498/2023 registered for offences under Sections 294 and 506 read with 34 of the IPC and consequent proceeding arising out of the same bearing SCC No.14195/2024 are hereby quashed and set aside to the extent of present applicants.

Application stands **disposed of**.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!

Signed by: Mr. B. R. Wankhede
Designation: PS To Honourable Judge
Date: 16/02/2026 18:43:07