



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

CRIMINAL APPLICATION (APL) NO. 1844 OF 2025

1. **Kunal s/o Rupchand Undirwade**

Aged about 33 years,

Occupation : Service,

R/o Qtr. No.BF, Civil Lines,

Nagpur

APPLICANT

// V E R S U S //

1. **The State of Maharashtra,**
Through Police Station Officer,
Sironcha, Dist. Gadchiroli

NON-APPLICANTS

2. **Sudhakar Jagannath Nimsarkar**

Aged about 57 years, Occ.

Service, R/o. Panchayat Samiti,

Sironcha, Tah. Sironcha,

Distt. Gadchiroli

Mr. Akshay Sudame, Advocate for the applicant.

Mrs. Mrunal Barbade, APP for non-applicant No.1 /State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 23.02.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. Despite service of notice none appears for non-applicant No.2.

4. By this application applicant is seeking to exercise inherent powers under Section 528 of Bharatiya Nagrik Suraksha Sanhita and praying for quashing of the First Information Report in connection with crime No.144/2020 registered at Police Station Sironcha District Gadchiroli for the offences punishable under Sections 294, 506, 504 and 597 of the Indian Penal Code (for short, 'IPC').

5. The crime is registered on the report lodged by Sudhakar Jagannath Nimsarkar who was serving as a Assistant Administrative Officer since 2018 on an allegation that he is working as Block Development Officer at Panchayat Samiti Sironcha, since 13.08.2019. It is alleged that applicant is habit of communicate in unofficial language with other employees. The complainant being Assistant Administrative Officer on 16.06.2020 received a miscellaneous leave application on his table through

post. The complainant after marking the same send it to Administrative Department. At that time the Block Development Officer Kunal present applicant called the non-applicant No.2 in his cabin and abused him in filthy language and scolded for accepting the application of Shri B.V. Shende, Junior Engineer. At that time, one Pritam Gopichand Wasnik was present. Due to the said act of the present applicant, the complainant got mentally disturbed. It is further alleged that applicant is in habit of communicating with others in abusive language. Other employees also made a complaint against the present applicant. On the basis of the said report, police have registered crime against the applicant. During investigation, the Investigating Officer has recorded various statements of the witnesses and after completion of the same, the charge-sheet came to be filed against the present applicant.

5. Heard Mr. Sudame, learned counsel for the applicant who submitted that regarding the said allegations the applicant was put for the department inquiry wherein none of the said allegations are proved and therefore, he is exonerated from the charges. He also invited my attention towards Section 294 of the

IPC and submitted that if the allegations in the light of the provision as well as in the light of the settled law by the judgment of the Supreme Court are considered no offence is made out against the present applicant. He submitted that offence under Section 506 is also not made out as none of the statement discloses that they were threatened with any injury to their person, reputation of property or there was any intention to cause any harm to that person thereby the applicant has committed an offence of criminal intimidation. Thus, he submitted that the ingredients of Sections 294, 506 and 504 are not made out and as the prima-facie case is not made out. It is a fit case wherein the powers under Section 528 of the BNS can be exercised by this Court.

6. Per contra, learned APP strongly opposed the application and submitted that the statements of the various witnesses disclose that the present applicant is in habit of abusing the other employee. The common complaint against the applicant is filed by the employees. The statements of the witnesses also disclosed the same and thus, prima-facie case is made out against the applicant. In view of that, application deserves to be rejected.

7. After considering the rival submissions of both the parties and on perusal of the entire investigation papers, the allegations levelled against the present applicant is that he is in habit of abusing various employees and three instances are narrated one incident is dated 16.06.2020 another incident is dated 29.05.2020 and third incident is 31.03.2020. These incidents are in respect of abuses by the present applicant to the complainant and there after to Lalita Kumare and Dhyaneshwar Pardhi as well as Arun Dongare. The statements of these witnesses are also recorded during the investigation and the statements are the replica of the recitals of the FIR. Thus even accepting the statements as it is, it is alleged that unparliamentary language is used by the applicant while communicating with them. They were abused in the filthy language. Now the question is whether that allegation is sufficient to attract the offence punishable under Section 294 of the IPC.

Section 294 deals with **obscene acts and songs** whoever, to the annoyance of others:

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with

imprisonment of either description for a term which may extend to three months, or with fine, or with both.

8. It is now settled 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. Admittedly the words spoken about the obscene words, nowhere reflects that they felt annoyed due to the words used by the present applicant. This aspect is considered by the Hon'ble Apex Court in the case of **Om Prakash Ambadkar Vs. The State of Maharashtra and Ors.**, reported in *Manu/SC/0134/2025* and it is observed that in so far as Section 294 of the IPC is concerned, this Court in the case **N.S. Madan Gopal and another vs. K. Lalita reported in (2022) 17 SCC 18** wherein it is observed that it has to be noted that "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. Thus, even accepting the allegations as it is no offence is made out under Section 294 of the IPC as there is nothing on record to show that by utterance of the words the witnesses felt annoyed.

9. As far as Section 506 is concerned, the definition of criminal intimidation is given under Section 503 of the IPC which reads as under “Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation”. The explanation to Section 503 is that a threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section. Thus, Section Section 506 deals with the punishment for criminal intimidation. Thus, the ingredients which are required for to attract Section 503 are:

(1) Threatening a person with any injury;

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

Thus, to attracts Section 506 sub section (2) The threat must be with intent; (i) to cause alarm to that person; or (ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or (iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

10. In the light of the above definition if the facts of the present case are considered none of the statements contemplates intention that there was intentional insult of the person and thereby they were provoked by the present applicant to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the Section. In view of that offence under Section 504 and 506 are not attracted

against the present applicant. As far as section 507 is concerned that has no application in the present case.

11. In addition to that learned counsel for the applicant has placed on record the inquiry report which was initiated against the present applicant wherein the similar type of the allegations are levelled as well as misconduct on the part of the present applicant but he is exonerated from the said departmental inquiry as none of the witnesses discloses any misconduct on his part or any sexual harassment at the hands of the present applicant at the work place. Due to which he is exonerated by conducting of full-fledged inquiry.

12. In the light of the above facts and circumstances this is fit case wherein the power under Section 528 of BNS can be exercised to quash the FIR against the present applicant.

13. Hence, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed.
- (ii) The First Information Report in connection with crime No.144/2020 registered at Police Station Sironcha District

Gadchiroli for the offences punishable under Sections 294, 506, 504 and 597 of the Indian Penal Code is quashed and set aside against the applicant-Kunal s/o Rupchand Undirwade.

14. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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