



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

CRIMINAL APPLICATION (APL) NO. 225 OF 2026

Bhushan s/o Vikasrao Palwe,
Aged about 31 years, Occ: Private,
R/o Near Chitra Talkies, Gawlipura,
Nagpur-440032.

APPLICANT

Versus

1. State of Maharashtra,
Thr. Police Station Officer,
Police Station, Lakadganj, Nagpur.

2. XYZ (victim)
Aged about 16 years (Minor),
Thr. Police Station, Lakadganj,
Nagpur.

NON-APPLICANTS

Mr. I.S. Charlewar, Advocate for the Applicant.
Mr. A.M. Kadukar, APP for the Non-applicant No.1/State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 09th MARCH, 2026.

ORAL JUDGMENT :-

1. Heard.

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

3. Though the Non-applicant No.2 is served none appears for the Non-applicant No.2.

4. The present Application is preferred by the Applicant under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing of the First Information Report in connection with Crime No.372/2025 registered with Police Station Lakadganj, District Nagpur for the offences punishable under Section 75(3) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

5. The crime is registered on the basis of a report lodged by the minor victim girl aged about 15 years on an allegation that she was attending the tuition classes with the present Applicant and on 08.05.2025 she has attended the tuition classes alongwith her friends and they were discussing about their doubts. At that time, she asked the present Applicant

regarding his period and timing of the period, at that time he has passed a colourful remark by saying “आय एम मेल मला पिरीयेड नाही येत”. The said words were uttered by the present Applicant in presence of male as well as female students, and therefore, she was ashamed of. Thereafter she has not attended the tuition classes and she has disclosed the said incident to her mother on 15.05.2025. Thereafter the FIR came to be lodged against the present Applicant. After registration of the crime the investigation was carried out and during investigation the Investigating Agency has recorded the statements of various witnesses and after completion of the investigation submitted the charge-sheet against the present Applicant.

6. Heard learned Counsel for the Applicant, who submitted that, as far as the utterance of the words are concerned, it is in a lighter way used by the present Applicant and there was no sexual intent by him, and therefore, the offence is not made against the present Applicant. He submitted that, he is a Mechanical Engineer by profession and there was no such intention on his part to outrage the modesty of the victim, and therefore, no *prima facie* case is made out against

the present Applicant. In view of that, the Application deserves to be allowed.

7. *Per contra*, learned APP strongly opposed the said contention and submitted that, considering that in presence of other students the present Applicant has uttered the words by which she felt ashamed of, and therefore, *prima facie* case is made out against the present Applicant. He submitted that, as far as the intention is concerned i.e. the matter of evidence. At this stage, considering the words used by the present Applicant, it comes within the purview of colourful remark, and therefore, the Application deserves to be rejected.

8. Learned Counsel for the Applicant has placed reliance on the observation of this Court in Criminal Appeal No. 471/2017, Ravindra Laxman Narete Vs. State of Maharashtra decided on 30.06.2025.

9. After hearing both the sides and on perusal of the entire recitals of the FIR as well as the investigation papers by which it reveals that, during investigation the Investigating Officer has recorded the relevant statements of the witnesses

which shows that, the victim and other students were enquiring with the present Applicant as to the time of his class or period, at that time the present Applicant has uttered the words “आय एम मेल मला पिरीयेड नाही येत”. Admittedly, such type of words are not supposed to be used by the present Applicant, who is a Teacher by profession. Though we are entering into the 20th Century but till today the girls or women are not discussing such topics freely and in open environment. Therefore, the contention of the victim that due to the utterance of the words by the present Applicant she felt ashamed of, requires to be taken into consideration.

10. Section 354 of IPC deals with assault or criminal force to woman with intent to outrage her modesty. This Section is reproduced under Section 75 of BNS, 2023, which deals with the circumstances regarding the sexual harassment, which reads as under:

“75. (1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

11. This clause is to provide punishment for sexual harassment such as physical contact or physical contact and advances involving unwelcome and explicit sexual overtures or a demand or request for sexual favours or showing pornography against the will of a woman with rigorous imprisonment for term which may extend to three years or with fine or with both and for making sexually coloured remarks the imprisonment of either description for a term which may extend to one year, or with fine, or with both.

12. The learned APP submitted that, the words uttered by the present Applicant comes within the purview of colourful remarks. He also submitted that, the object of the act also requires to be taken into consideration, it is for protecting the children from such activities, and therefore, the act of the

present Applicant will come within the purview of Section 12 of POCSO Act. The definition of sexual harassment is given under Section 11. The POSCO Act, 2012 is an Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

13. 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 which may extend to three years, and also with fine.

14. In the present case, the allegations are of the nature that the Applicant has uttered the words, due to which the victim has felt ashamed of, and therefore, she stated that, the Applicant has outraged her modesty.

15. Learned Counsel for the Applicant, submitted that a bare perusal of the statement shows that there was no sexual intent.

16. In order to understand intention of the accused behind such utterances, one has to look into the entire circumstances around it.

17. Admittedly, “intention” is inner compartment of mind of that person and has to be determined from surrounding facts and circumstances. If somebody says that he has no intention that is to be inferred from the surrounding circumstances as there is no possibility of having direct evidence as regards to the intention of the accused. As far as the modesty is concerned, the utterance of the words by the present Applicant was sufficient to fell ashamed of for any girl and especially the girl of teenage. Whether there was any intention or not i.e. the matter of evidence. The state of mind, must be to establish some sort of physical contact or must be related to or associated with sex or indicative of involvement of sex in the said relationship.

18. The sexual intent is to be inferred from the evidence or the attending circumstances which would come on record during the evidence before the Trial Court. At this stage, the utterance of the words by the present Applicant by which the victim felt ashamed of, is sufficient to infer that the offence is made out against the present Applicant. In view of that, as the *prima facie* case is made out, the Application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- i.** Criminal Application is **rejected**.
 - ii.** The learned Trial Court shall not be influenced by the observations made which is only for the purpose of quashing of the FIR.
- 19.** Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)