



Judgment

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

**CRIMINAL APPLICATION APL NO.110 of 2025**

Mangesh s/o Bhojraj Urade,  
age- 40 years, occupation- private,  
r/o Rakelwad, taluka Saoner,  
district Nagpur. .... **Applicant.**

**:: VERSUS ::**

1. State of Maharashtra,  
through- PSO – Kelwad,  
district- Nagpur.

2. Vitthal s/o Marotrao Kamdi,  
age- 71 years, occupation- private,  
r/o ward No.2, Beedgaon,  
taluka Saoner, district- Nagpur. .... **Non-applicants.**

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Shri S.S.Kulkarni, Counsel for the Applicant.

Shri Nikhil Joshi, APP for Non-applicant No.1/State.

None appears for the Non-applicant N.2.

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**CORAM** : **URMILA JOSHI-PHALKE, J.**

**DATE** : **05/02/2026**

**ORAL JUDGMENT**

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

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**2**

2. By the present application, the applicant is seeking quashing of FIR in connection with Crime No.46/2023 registered for offences under Sections 195-A, 294, and 506 of the IPC and consequent proceeding arising out of the same bearing chargesheet No.54/2023.

3. The crime is registered against the applicant on the basis of a report lodged by Vitthal Marotrao Kamdi on allegation that, in his village, the applicant is residing, who is a mischievous person and offences are registered against him. On 16.3.2023, at about 4:00 pm, when he was proceeding towards Bank of India, the applicant called him and abused him in a filthy language as well as threatened him. On the basis of the said report, the police have registered the crime against the applicant.

4. Learned counsel for the applicant submitted that even accepting the allegations as it is, at its face value, the offence under Section 294 of the IPC is not made out as mere abuses

**3**

are not sufficient to attract the offence under Section 294 of the IPC.

He further submitted that as far as the offence under Section 506 of the IPC is concerned, the same is also not made out as there is nothing on record to show that there was criminal intimidation by the applicant by threatening the person with an injury or by threatening the person's reputation or property.

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

5. *Per contra*, learned APP for the State has strongly opposed the said contentions and submitted that considering the language used by the applicant and considering fact that there are offences registered against the applicant of the similar nature, the application deserves to be rejected.

6. On hearing both the sides and perusing the entire investigation papers, it reveals that the applicant is charged for the offence under Section 294 of the IPC.

**4**

7. Section 294 of the IPC talks about obscene acts and songs. The said Section is reproduced as under for reference:

**“294. 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. Perusal of the entire FIR shows that the words used by the applicant are that, “..... मला अशिलल शिवीगाळ दिली की, साल्या मादरचोद जर तू का माझया विरुध्द कोर्टात साक्ष दिली, तर तुला कोणत्यातरी खोटया गुन्हयात फसवुन टाकीन असे बोलून तुला पाहुन घेईन असे म्हणून धमकी दिली.”

Even, if it is accepted at its value, admittedly, it does not pass “test of obscenity”.

9. The “test of obscenity” is referred by the Hon’ble Apex Court in the case of **N.S. Madhanagopal and anr vs. K.Lalitha, reported in (2022), 17 SCC 818** wherein it is laid down the “test of obscenity” under Section 294(b) of the IPC and observed that, “whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences.”

It has been further observed that, “this test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in **Ranjit D. Udeshi vs. State of Maharashtra, reported in MANU/SC/0080/1964** that the “test of obscenity” is the ‘substantial tendency to corrupt by arousing lustful desires’.”

“In order to be “obscene” the matter must “tend to sexually impure thoughts. I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think

**6**

that the words are “obscene” and the utterance would constitute an offence punishable under Section 294(b) of the IPC.”

10. Thus, to attract the offence under Section 294(b) of the IPC, some lascivious elements showing sexual thoughts or feelings are the requirements.

11. In the present case, record does not disclose that the alleged words used by the applicant are attracting any lascivious elements.

12. It is further considered by the Hon’ble Apex Court in the case of **Om Prakash Ambadkar vs. State of Maharashtra, reported in MANU/SC/0134/2025**, “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”.

**7**

13. No one has spoken about the “obscene” words and due to that, he felt annoyed and, therefore, the ingredients are absent in the present case.

14. As far as Section 506 of the IPC is concerned, it deals with criminal intimidation for which threatening a person with an injury or by threatening a person’s reputation or property is the requirement. To attract Section 506 of the IPC, threat must be with an intent

15. Thus, considering all these aspects and applying the same to the present case, admittedly, offences under Sections 294 and 506 of the IPC are not made out.

16. In view of that, no *prima facie* case is made out against the applicant.

17. The law relating to quashing of FIRs was explained by the Hon’ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which

**8**

are required to be considered while considering applications for quashing of the FIRs, which read as under:

“(a) 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute

**9**

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;

(e) 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;

(f) 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;

(g) 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

**10**

accused and with a view to spite him due to private and personal grudge”.

18. In this view of the matter, *prima facie* case is not made out against the applicant. 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.46/2023 registered for offences under Sections 195-A, 294, and 506 of the IPC and consequent proceeding arising out of the same bearing chargesheet No.54/2023 are hereby quashed and set aside to the extent of applicant Mangesh s/o Bhojraj Urade.

Application stands disposed of.

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

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