



Judgment

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

**CRIMINAL APPLICATION APL NO.1146 OF 2023**

1. Bhojraj Megheshyam Vaidya,  
age: 23 years, occupation: Sarpanch,  
r/o at post Mangli, Gandhi Ward,  
tahsil, Pauni, district Bhandara.

2. Hiralal Dadaji Vaidya,  
aged 32 years, occupation: Deputy  
Sarpanch  
r/o Vitthal Rukhmai Mandir  
Ward, Mangli (Chauras),  
Bhandara.

..... **Applicants.**

**:: VERSUS ::**

1. State of Maharashtra,  
through Police Station Officer,  
Police Station: Pauni,  
tahsil Pauni, district Bhandara.

2. Vimal Vijay Khobragade,  
aged 58 years, occupation: housewife,  
r/o Mangli, tahsil Pauni,  
district Bhandara.

..... **Non-applicants.**

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Ms Aparna Jha, Advocate h/f Shri A.A.Dhawas, Counsel  
for the Applicants.

Shri A.M.Kadukar, APP for Non-applicant No.1/State.

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

**DATE : 27/01/2026**

**ORAL JUDGMENT**

1. Heard learned counsel Ms Aparna Jha for the applicants and learned APP Shri A.M.Kadukar for the NA No.1/State. Despite service, none appears for the non-applicant No.2 (the informant). **Admit.** Heard finally by consent of learned counsel for the parties.

2. By this application, the applicants are seeking quashing of the FIR in connection with Crime No.0185/2023 registered for offences under Sections 294, 504, and 506 of the IPC and 3(1)(r) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and consequent proceeding arising out of the same bearing Special Case No.80/2023.

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3. The crime is registered on the basis of a report lodged by the non-applicant No.2 (the informant) on allegations that she is residing in village Pauni and she belongs to “Mahar Community”. As per allegations on 26.4.2023, when she was at home, the applicants came to her home and told her that they would not provide her place for construction of “Gharkul” under the “Gharkul Scheme” and also threatened that they would remove her out of the village as well as she was abused in a filthy language by saying that, “..... मायरीने धेडीने, साली मादरचोद तुझा बांधकाम बंद, असे बोलला.....” On the basis of the said report, the police have registered the crime against the applicants.

4. After registration of the crime, investigation was carried out and various statements are recorded and after completion of the investigation, chargesheet is submitted.

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5. Learned counsel for the applicants submitted that by no stretch of imagination it can be said that the words uttered by the applicants attract either offence under Section 294 of the IPC or under the provisions of Section 3(1)(r) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. She submitted that the provisions of the Atrocities Act are not applicable as the alleged incident has not taken place “within the public view”. She submitted that recital of the FIR and various statements of witnesses show that the alleged incident has taken place in the house of the informant and, therefore, this place is not “the public view”.

In support of her contentions, she has placed reliance on the decision of the Hon’ble Apex Court in the case of **Karuppudayar vs. State, rep. by the Deputy**

**Superintendent of Police, Lalgudi Trichy and ors, reported  
in 2025 SCC OnLine SC 215.**

She further submitted that offences under Sections 504 and 506 of the IPC are also not made out as there is nothing on record to show that there was any criminal antecedents against the applicants. Thus, no *prima facie* case is made out. In view of that, compelling the applicants to face trial would be abuse of process of law. In view of that, the application deserves to be allowed.

6. *Per contra*, learned APP for the State strongly opposed the said contentions and submitted that statement of the informant specifically shows that she was abused in a filthy language which is sufficient to attract Section 294 of the IPC. The threat given to her also discloses that there was a “criminal intimidation”. The applicants who are Sarpancha and Deputy Sarpanch of

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the said village were aware about the fact that she belongs to the “Scheduled Caste Community.” Despite they were knowing the same, she was abused “within the public view” and, therefore, a *prima facie* case is made out against the applicants and, therefore, the application deserves to be rejected.

7. After hearing both the sides and perusing the entire investigation papers, it reveals that there was a dispute between the applicants and the informant on account of providing the informant a place in the village for constructing a house under “Scheme of Pantapradhan Awas Yojana”. As per allegation, on 26.4.2023, both the applicants came to her house and abused her in a filthy language as well as threatened her. During the investigation, various statements of witnesses are recorded and it revealed that all the witnesses are relatives of the informant. The statements of witnesses

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nowhere show that the said incident has taken place “within the public view”.

8. Learned counsel for the applicants has rightly placed reliance on the decision in the case of **Karuppudayar** *supra*, wherein by referring the earlier judgment in the case of as **Swaran Singh vs. State**, reported in (2008) 8 SCC 435, the Hon’ble Apex Court has held, as under:

“Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as **Swaran Singh vs. State**, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and

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the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view.”

9. In the light of the above observations, if the allegations are taken into consideration, admittedly, except statements of witnesses, there is no statement of any independent witnesses to show that the alleged incident has taken place “within the public view.” On the contrary, recital of the FIR shows that the applicants came at her home and the alleged incident has taken place at her house.

10. As far as offence under Section 294 of the IPC is concerned, the allegation is that she was abused by the applicants in a filthy language.

11. 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”.

12. As far as “obscenity” is concerned, the observations of the Hon’ble Apex Court in the case of **N.S. Madhanagopal and anr vs. K.Lalitha, reported in (2022), 17 SCC 818** are relevant wherein it is laid down the test of “obscenity” under Section 294 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 that the words are “obscene” and the utterance would constitute an offence punishable under Section 294(b) of the IPC.”

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13. Thus, to attract the offence under Section 294 of the IPC, mere filthy language or mere abuses are not sufficient, but there must be a further proof to establish that it was to annoyance of others, which is lacking in the case.

14. As far as offences under Sections 504 and 506 are concerned, it is alleged that the informant was threatened by the applicants.

15. Section 503 of the IPC deals with “criminal intimidation” which states that, “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

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avoiding the execution of such threat, commits criminal intimidation”.

16. Section 506 of the IPC deals with “punishment for criminal intimidation.”

17. Thus, ingredients required to attract Section 503 of the IPC are; (i) threatening a person with any injury; (ii) to his person, reputation or property; or (iii) to the person or reputation of any one in whom that person is interested.

18. Thus, Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace and intentionally insulting a person knowing it to be likely that a person insulted may be provoked so as to cause a breach of public peace or to commit any other offence. Mere abuse may not come within the purview of this Section.

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19. In view of that, the application of Section 506 of the IPC is also doubtful in the present case.

20. It is further alleged by the informant that she was abused on caste though the applicants were knowing that she belongs to the “Scheduled Caste Community”.

For that purpose, the observations of the Hon’ble Apex Court, in Criminal Appeal No.2622/2024 (**Shajan Skaria vs. The State of Kerala and anr**) are relevant to be referred wherein it is held that to attract the offence under Section 3(1)(r) of the Atrocities Act, basic ingredients to constitute offence are; (a) accused person must not be a member of Scheduled Caste or Scheduled Tribe; (b) accused must intentionally insult or intimidate a member of a Scheduled Caste or Scheduled Tribe; (c) accused must do so with the intent to

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humiliate such a person; and (d) accused must do so at any place within public view.

It has been further held that, “all insults or intimidation to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe”.

21. This type of the allegations are absent in the present case. In view of that, the allegations levelled against the applicants to attract the offences alleged are not sufficient and, therefore, forcing or compelling the applicants to face trial would abuse of process of law.

22. 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

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**1992 Supplementary (1) SCC 335** wherein principles have been laid down which 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;

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(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 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

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

23. By applying the above said principles, and if the facts and circumferences of the present case are taken into consideration, admittedly, no *prima facie* case is made out against the applicants. In view of that, the application deserves to be allowed. Hence, I proceed to pass following order:

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**ORDER**

(1) The Criminal Application is **allowed**.

(2) The FIR in connection with Crime No.0185/2023 registered for offences under Sections 294, 504, and 506 of the IPC and 3(1)(r) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and consequent proceeding arising out of the same bearing Special Case No.80/2023 are hereby quashed and set aside to the extent of the applicants.

Application stands **disposed of**.

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