



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

CRIMINAL APPLICATION (APL) NO. 1128 OF 2019

1. **Ku Mohini d/o Damodar Murkute**
Aged about 27 years,
Occupation : Nil
2. **Rakesh s/o Damodar Murkute**
Aged about: 33 years,
Occupation: Business,

Both r/o Central Railway Colony,
Besa Road, Omkar Nagar, Nagpur

// V E R S U S //

1. **The State of Maharashtra,**
Through the Police Station Officer, NON-APPLICANT
Police Station, Mul
Dist, Chandrapur
2. **Sau. Vaishali w/o Subhash
Bhandarkar,**
Aged about 50 years,
Occ: Service, R/o Tadala Road,
Mul, Tq. Mul, Dist. Chandrapur

Mr. S.T. Harkare, Advocate for the applicants.
Mr. A.M. Joshi, APP for non-applicant No.1 /State.
Mr. A.P. Chaware, Advocate for the non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 19.01.2026

ORAL JUDGMENT :

1. Heard.

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

3. The present application is preferred by the applicants for quashing of the First Information Report in connection with crime No.513/2017 registered with the non-applicant No.2-Police Station under Sections 354-A, 294 and 506 of the Indian Penal Code and chargesheet No.102/2017 and consequent proceeding arising out of the same bearing RCC No.80/2017 pending in the Court of Judicial Magistrate First Class Mul District Chandrapur.

4. The crime is registered on the basis of report lodged by non-applicant No.2, on an allegation that on 29.06.2017 the present applicants have abused her in filthy language when she was fetching the water at the water tab. During investigation the statement of the daughter of the present complainant was recorded and from the statement it revealed that the present applicants not only abused but also outrage the modesty of her daughter by using the following wordings;-

राकेशने मला तुझ्या घरात घुसतो व तुला हेपतो दोन्ही बहिणी अशाच आहेत, एक मुंबईला तर दुसरी हे हेपायला जाते तुम्हाला तुमच्या आईने 10 हजारात विकले आहे. मुलांचे एटीएम घेऊन तुम्ही शॉपिंगला जाता नागपूर येऊन आम्हाला काय सांगते ?

On the basis of the said investigation papers the charge-sheet is filed against the present applicants..

5. Heard learned counsel for the applicants who submitted that as far as the prima-facie case is concerned it is not revealed from the investigation papers that due to the civil dispute between the parties FIR came to be lodged against the present applicants. He submitted that no specific role is attributed to the present applicants. In view of that the application deserves to be allowed.

6. Per contra, learned APP and learned counsel for the complainant strongly opposed the said contention and submitted that not only the filthy language is used but they have outraged the modesty. He submitted that considering the wordings used by the present applicants it is sufficient to show the obscene act on the part of the present applicants. In view of that application deserves to be rejected.

7. After hearing both the parties and on perusal of the recitals of the FIR, wherein the allegations are levelled of abuses when the complainant had been reported back to fetch the water. The Hon'ble Apex Court in the case of **N.S. Madan Gopal and another vs. K. Lalita** reported in **2022(17) SCC 18** wherein laid

down the test of obscenity under Section 294 (b) of the IPC observed that “the test of obscenity is this whether the tendency of the matter charge as obscenity is to deprave and corrupt those minds and open to such immoral influences.” This test has been uniformly followed in India. The Hon’ble Apex Court has accepted the correctness of the test in *Ranjit D. Udeshi Vs. State of Maharashtra* Manu/SC 0080/1964 wherein the test of obscenity is substantial tendency to corrupt by arousing lustful desires.

8. This aspect is further 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 it has to be noted that in the instant 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) of the IPC. 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.

9. In view of the above observations of the Hon'ble Apex Court if the wordings used by the present applicants are taken into consideration which disclosed the alleged words used by the present applicants attracting the obscene words to attract the offence punishable under Section 294 (b) of the IPC. It is not mere utterance of obscene words but it is having the colour of the obscene activities on the part of the present applicants. Considering the prima-facie case against the present applicants the application deserves to be rejected.

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

ORDER

- (i) The Criminal Application is rejected.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)