

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH, NAGPURCRIMINAL APPLICATION (APL)NO.522 OF 2020

Tukaram 5/o Balasaheb Raskar
Age: 30 Years, Oce: Private,
R/o. Dalaj No. 2, Tah- Indapur,
Dist- Pune.
At Present: MIDC Chowk,
Baramati, Tah- Baramati,
Dist-Pune

... APPLICANT

...VERSUS...

1. State of Maharashtra
Through P.S.O.
Police Station Channi,
Tah- Akola Dist- Akola.
2. Ku, Rupali Ramesh Adhau
Age:- 26 Years, Occ: Household,
R/o. Malipura, Alegoan,
Near Malibhavan, Tah- Patur,
Dist Akola
AT Present: Hingana Karegoan,
Tah- Khamgoan, Dist- Buldhana

...NON-APPLICANTS

Shri Sunil Kulkarni, Advocate h/f Shri S.D. Chande, Advocate for applicant
Ms S.S. Dhote, APP for non-applicant No.1/State

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 17.11.2025
PRONOUNCED ON : 02.12.2025

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard. **Admit.** Heard finally with the consent of learned Counsel for both the parties.

2. The applicant has approached this Hon'ble Court by filing the present application under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the First Information Report dated 06.02.2020, registered as Crime No 0039/2020 at Police Station, Chhani, District Akola, for the offences punishable under Sections 354, 354-D of the Indian Penal Code, 1860, as also, the applicant has further prayed for quashing and set aside the proceedings bearing Regular Criminal Case No. 255/2024, pending before the learned Judicial Magistrate First Class, Patur, District Akola.

3. The sum and substance of the First Information Report lodged by the non-applicant No. 2 are as follows:

The non-applicant No.2 is married to one Sachin Jumale on 30.12.2019, and since the date of her marriage, she has been residing at her matrimonial home at Hingna. As per the complaint,

she became acquainted with the applicant via Facebook, prior to two years of her marriage, and used to chat with him. It is further alleged in the report that the applicant had proposed marriage to the non-applicant No.2, but she refused the said proposal, as she did not like the applicant. On this refusal, the applicant got annoyed and to defame her, posted on her Facebook account certain objectionable material on 10.01.2019 from his mobile phone. It is further alleged in the report that the applicant, similarly, on 10.06.2019 and 30.09.2019 again posted objectionable post on the Facebook. It is alleged that on four different occasions, the applicant has posted material on the Facebook to defame and cause harassment to her

It is further alleged that the applicant, on 31.07.2018, one day prior to the date of the non-applicant No. 2's marriage, had been to her house with a bottle of poison and had threatened to commit suicide. On that day, the father and the relatives of the non-applicant No. 2 took the applicant to the Police Station, where the applicant apologized for his acts, hence, no action was taken against him.

The non-applicant No. 2 states that the applicant is stalking her by posting defamatory and objectionable material on her Facebook account and is trying to cause hurdles and disturbance in her marital life.

4. Based on the aforementioned reasons, the non-applicant No. 2 has lodged a complaint against the applicant. The said complaint was registered with the Police Station Channi, Akola, for offences punishable under Section 354 and 354-D of the Indian Penal Code, 1860. It is this First Information Report and the consequent charge-sheet which is being assailed in the present application.

5. We have heard Mr. Sunil Kulkarni on behalf of Mr. S. D. Chande, learned Counsel for the applicant, and Mrs. Sneha Dhote, learned Additional Public Prosecutor for the non-applicant No. 1/State.

6. The learned Counsel for the applicant has vehemently opposed the allegations levelled against the applicant by the non-applicant No. 2. It is submitted that the present applicant and the non-applicant No. 2 met on Facebook, and they started talking to

each other. This friendship gradually culminated into a love affair, and the said relationship has been ongoing since 2014-2015. It is further submitted that the parents and the relatives of the non-applicant No. 2 met the family of the applicant, and after a healthy discussion, their marriage was finalized. After some days, the non-applicant No. 2 started demanding money from the applicant. The applicant, in good faith and on the assurance of marriage, lent money to the non-applicant No. 2 and her family members. The applicant has helped the non-applicant No. 2 and her family members with a total amount of Rs.2,88,000/- (Two Lakhs and Eighty Eight Thousand).

7. It is further submitted that the non-applicant No. 2 and other family members further demanded a total sum of Rs.5,00,000 (Five lakhs) along with 5 acres of land for the performance of the marriage. It is further submitted that the relatives of the non-applicant No. 2 even threatened the applicant with non-performance of marriage, if the said demands are not fulfilled. The applicant was not in a position to fulfill their demand, and therefore, the applicant on 25.11.2018 asked the relatives of the

non-applicant No. 2 to refund his earlier amount which was given to them. To which, the relatives of the non-applicant No. 2 refused strictly and further abused the applicant in filthy language and threatened him with dire consequences. Being aggrieved by the same the applicant filed a complaint case against the non-applicant No. 2 and her relatives before the learned J.M.F.C. Court at Baramati vide MCA No. 484/2018 for the offences punishable under Sections 420, 504, 506, read with 34 of the Indian penal Code. That case is pending in the Court.

It is further submitted that the relatives of the non-applicant No. 2 neither returned the applicant's money nor solemnized a marriage between the applicant and the non-applicant No. 2.

It is further submitted that the allegations levelled in the present First Information Report against the applicant are false, vexatious, and lack the essential ingredient to constitute a crime of harassment.

8. On the other hand, the learned Additional Public Prosecutor vehemently opposed the contentions of the learned Counsel for the

applicant. The learned Additional Public Prosecutor submits that the non-applicant No. 1 has recorded the statement of the non-applicant No. 2 and several other witnesses. It is further submitted that the offence punishable under Section 66A of the Information Technology Act, 2000, has been inadvertently added in the F.I.R. and accordingly deleted after intimidation of the concerned Court. There is a *prima facie* case against the present applicant and thus the application is liable to be rejected.

9. In the backdrop of these facts, we have perused the said First Information Report and the consequent charge-sheet. As can be seen from the said First Information Report, it was lodged by the non applicant No. 2, alleging that the applicant has made some objectionable posts on the Facebook account that is a social site which amount to offence punishable under Section 354, 354-D of the Indian Penal Code. Section 354 and 354-D of the Indian Penal Code reads as under:

“354. Assault or criminal force to woman with intent to outrage her her modesty, - Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [shall be punished with imprisonment of

either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine]”

“354-D. Stalking-(1) Any man who-

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that-

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.”

10. Thus, Section 354 of the Indian Penal Code contemplates assault or criminal force to woman with intent to outrage her

modesty, while Section 354-D speaks about stocking and states that any man who does any act as provided in that section would be guilty of the said offence.

11. In the light of these legal provisions, if we peruse the First Information Report in question and the post to which their is an objection, it can certainly be said that posting of a post on a social site i.e. Facebook, would amount to committing an offence as contemplated under the above sections. Admittedly, the non-applicant No.2 is a married lady and is residing with her husband. Assuming that the non-applicant No.2 had some relation prior to her marriage with the applicant, and even assuming that the applicant had lent money to her on assurance of marriage, that cannot be construed as giving a license to the applicant herein to post some objectionable post over the social site. The aspect relating to the financial help referred by the applicant and the applicant having a relationship with him prior to the marriage are matters which are to be decided at the stage of evidence in a full fledged trial. As stated by the Hon'ble Supreme Court in the judgment of *State of Madhya Pradesh vs Laxmi Narayan, (2019) 5 SCC 688*, the

powers under Section 482 are to be sparingly used and cannot be a tool to stifle a legitimate prosecution. It can therefore very well be said that this is not a case in view of the overwhelming material, at least at a *prima facie* stage, to quash the proceeding at the threshold. We, therefore, proceed to pass the following order :

ORDER

The application is rejected.

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

Jayashree..