



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL)NO.945/2019

Kiran D/o Tarachand Jaiswal
After marriage Kiran w/o Sachin
Kanojiya, aged about 36 years,
R/o Bhilgaon near Shiv Mandir,
Kamptee, Nagpur Road Tahsil
Kamptee, District Nagpur.

... APPLICANT

...VERSUS...

- 1) The State of Maharashtra
Through Police Station Officer,
Police Station Mankapur,
Nagpur City Nagpur.
- 2) Sachin Shama Kanojiya
aged about 39 years, R/o 11,12
Netaji Society, Sai Nagar,
Zhingabai Takali Police Station,
Mankapur Nagpur.

...NON-APPLICANTS

Shri. S. Zia Quzi, Advocate for applicant
Smt. S.S. Dhote, APP for non-applicant No.1/State
Shri Aniruddha Jaltare, holding for Shri B.H. Tekam, Advocate for non-
applicant No.2

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

RESERVED ON : 25.09.2025
PRONOUNCED ON : 30.09.2025

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

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

2. This is an application filed under Section 482 of the Criminal Procedure Code, seeking quashing of the First Information Report bearing No.154/2019, dated 01.06.2019 registered with Mankapur Police Station, Nagpur, for the offences punishable under Sections 307, 452, 511 and 120 B of the Indian Penal Code and Section 3 of the Maharashtra Prevention of Eradication of Human Sacrifice and Other Inhumane, Evil and Aghori Practices and Black Magic Act, 2013. The application also prays for quashing of the charge-sheet bearing No.72/2019, filed by the investigating agency in pursuance to the said First Information Report.

3. As per the said First Information Report, the non-applicant No.2 who happens to be the husband of the present applicant lodged a report that on 16.05.2019 at about 6.30 p.m. he found some small statues made of flour in his compound. It is further

alleged that on 26.05.2019, at about 6.30 p.m. he found one lemon inside his compound wall in which he was written 'pushpa mrutyu' and there was a nail pricked in it. Thereafter, on 30.05.2019 again lemon was discovered with a nail pricked in it and written there on as "Pushpa Shama Mrutyu". There was a red coloured powder stuck on it. It is further stated in the First Information Report that on 31.05.2019, an unknown person was roaming around the residence of the applicant in doubtful manner. When he was accosted, he told his name as Dilip Chandanlal Jaiswal and when his belongings were checked it was found that there were lengthy chats in his mobile phone between him and the applicant. It was therefore stated that said Dilip Jaiswal along with the applicant had hatched a plan for committing murder of the complainant. On these set of allegations, First Information Report mentioned supra was filed. On completion of the investigation, the investigating agency filed charge-sheet. The said First Information Report and the consequent charge-sheet is challenged in the present application.

4. We have heard Shri S. Zia Quzi, learned Counsel for the applicant as also learned Additional Public Prosecutor Smt. S.S.

Dhote, for the non-applicant/State alongwith Shri Aniruddha Jaltare, holding for Shri B.H. Tekam, for non-applicant No.2.

5. Learned Counsel for the applicant submits that bare perusal of the allegations made in the First Information Report and charge-sheet would reveal that no offence much less as stated in the said First Information Report is made out. He further states that the offences registered against the applicant are a counter blast to the complaint lodged by the applicant against the complainant and his family. It is his submission that since *prima facie* the offences are not made out, the First Information Report and charge-sheet are liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor vehemently opposes the submissions made by the Counsel for the applicant and states that the applicant had engaged the services of co-accused who was indulging in Black Magic and had hatched a plan/conspiracy to murder the life of informant and his family members. She further states that during the course of investigation, spot panchanama is conducted and statements of witnesses are

recorded. Furthermore, she submits that clothes of the accused, mobile handset and one lemon having nail pierced in it having a red spot over it have been seized.

7. Learned Counsel for non-applicant No.2 also supports the contentions made by the learned Additional Public Prosecutor and states that the material collected by the investigating agency clearly reveals that the applicant had hatched the criminal conspiracy to eliminate the non-applicant No.2 and his family.

8. In the light of these submissions, we have perused the material on record. Before proceeding with the matter, it would be apropos to refer to the '**Maharashtra Prevention of Eradication of Human Sacrifice and Other Inhumane, Evil and Aghori Practices and Black Magic Act, 2013**'. This Act was brought on the statute book to bring social awakening and awareness in the society and to create a healthy and safe social environment with a view to protect the common people in the society against the evil and sinister practices thriving on ignorance, and to combat and eradicate human sacrifice and other inhuman, evil, sinister and aghori

practices propagated in the name of so called supernatural or magical powers or evil spirits commonly known as black magic by conmen with sinister motive of exploiting the common people in the society and thereby destroying the very social fibre of the society; and for matters connected therewith or incidental thereto.

9. Section 2 (b) defines "human sacrifice and other inhuman, evil and aghori practices and black magic" means the commission of any act, mentioned or described in the Schedule appended to this Act, by any person by himself or caused to be committed through or by instigating any other person. Section 3 which is a penal provision and more particularly Sub Section (1) thereof states that No person shall either himself or through any other person commit, promote, propagate any practice as stated in Section 2(d). Sub Section (2) of Section 3 provides that whoever commits such an act would constitute an offence under the provisions of Act and the punishment as contemplated under the said sub section should be imposed. Section 9 of the Act provides an overriding effect of the provisions of the Act over any other law. Section 10 provides that it would be competent for the Court after conviction to cause the

name and place of residence of such person who is convicted to be published by the police in the local newspaper where such offence has taken place, together with the fact that such offender has been convicted of the offence under this Act. Section 12 which is a savings clause saves certain practices as mentioned in Clause (1) to (8) thereof and states that the act would not apply to those practices.

10. Schedule appended to the act which is framed under Section 2(1)(b) enumerates 12 practices which are termed as “Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic”. While other clauses would not be relevant, what would be relevant is Sub Clause (8) of the said Schedule which is reproduced as under:

“(8) To create a panic in the mind of public in general by way of invoking ghost or mantras, or threaten to invoke ghost, creating an impression that there is ghostly or wrath of a power inapprehensible by senses causing physical injuries and preventing a person from taking medical treatment and instead diverting him to practice inhuman, evil and aghori acts or treatment, threatening a person with death or causing physical pains or causing financial harm by practicing or tend to practice black magic or inhuman act.”

11. A meaningful reading of the said sub clause would reveal that it contemplates to create a panic in the mind of public in general by invoking ghost or threat in that regard by creating an impression that there is fear of a power which is inapprehensible by senses causing physical injuries and preventing a person from taking medical treatment and instead diverting him to practice inhuman, evil and aghori treatment and threatening a person with death or causing physical pains would be within the sweep of this clause. Thus, what is required in this clause is to create a panic in the mind of public and preventing a person from taking medical treatment. It further contemplates threatening a person with death or physical pains or financial harm by practicing or tend to practice black magic or inhuman act.

12. In the backdrop of these facts if the First Information Report in question is seen, what is alleged in the First Information Report is that some small statues/sculptures made of flour were found in the residential compound of the first informant wherein certain matter was written and red mark was stuck. No role is attributed to the present applicant/accused in the said incident.

Thus, there is no threatening to a person with death by practicing black magic.

13. Furthermore, as far as second incident of apprehension of person namely Dilip Chandanlal Jaiswal, the only allegations is that there were certain chats on Whatsapp between him and the present applicant. On the basis of these allegations, it is alleged that a conspiracy to eliminate the non-applicant No.2 has been hatched by these two persons. The first informant is trying to connect the fact of finding of small statutes made of flour found in his compound with the fact of chats found in the mobile of Dilip Jaiswal. There is no material to reach to such conclusion at least *prima facie*. The allegations apart from being vague and omnibus in nature are not supported by any corroborative material.

14. We have perused the statements of the accused recorded by the investigating agency during investigation. There is nothing incriminating against the present applicant in the statements also. The other material collected by the prosecution agency is only the Whatsapp chats between the co-accused. All these things failed to

point out that there was a conspiracy to eliminate the complainant i.e. non-applicant No.2. Thus, in our view, offence under Section 307 of the Indian Penal Code is not made out since the averments to make out the offence are not in the First Information Report nor there is any material in the charge-sheet which is filed consequent to the said First Information Report. As far as allegations under Section 452 of the Indian Penal Code are concerned, they speak about house trespass. However, as far as the applicant is concerned, there are no allegations that she committed house trespass, more particularly when admittedly she is wife of the non-applicant No.2. Thus offence under Section 452 is not made out. Similarly offence under Section 511 and 120 B are also not made out in view of the above reasons.

15. As far as offence under Section (3) of the Maharashtra Prevention of Eradication of Human Sacrifice and Other Inhumane, Evil and Aghori Practices and Black Magic Act, 2013, is concerned, as we have already discussed the aim and object with which the Act was brought in the statute book and the serious repercussions it has on the offender in view of Section 10 mentioned above, imposition

of offence under the said Act cannot be done in a casual manner and that too when there is no material on record. Thus, the averments in the First Information Report do not make out a case falling under Clause (8) of the Schedule of the Act, since as stated above, there is nothing attributed to the applicant and it seems that First Information Report is filed only on suspicion.

16. The situation would therefore be covered by contingency Nos.1, 3 and 7 as enunciated by the Hon'ble Supreme Court in the judgment of *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*. Recently the Hon'ble Apex Court in judgment of *Achin Gupta Vs. State of Haryana and another reported in (2025) 3 SCC 756* stated as under:

“24. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge.”

17. We are therefore of the considered view that the First Information Report and the consequent charge-sheet is nothing but abuse of process of law, and therefore, applicant has made out a case to quash the same by resorting to inherent power under Section 482 of the Criminal Procedure Code. We, therefore, proceed to pass the following order :

ORDER

- i) The application is allowed.
- ii) The First Information Report No.154/2019 dated 01.06.2019 registered with Mankapur Police Station, Nagpur, for the offences punishable under Sections 307, 452, 511 and 120 B of the Indian Penal Code and Section 3 of the Maharashtra Prevention of Eradication of Human Sacrifice and Other Inhumane, Evil and Aghori Practices and Black Magic Act, 2013 along with the charge-sheet No.72/2019 against the applicant, is hereby quashed.

18. The application is disposed of in the above said terms.

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

Jayashree..