



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

CRIMINAL APPLICATION (APL) NO. 693 OF 2020

APPLICANT : Dr. Bhagwandas Shankardas Zawar,
Aged about : 67 years,
Occu : Doctor, R/o Ekta Nagar,
Zawar Hospital, Mehekar,
Tq. Mehekar, Dist. Buldhana.

V E R S U S

NON-APPLICANTS :

1. The State of Maharashtra
Through its P. S.O., Mehekar,
District Buldhana.
- (Complainant) 2. Dr. Vinayak Shankar Bhalerao,
Occupation : Service, R/o Gajanan
Nagar, Mehekar, Tq. Mehekar,
Dist. Buldhana.

Shri Abhay Sambre, Advocate for applicant.
Shri K. R. Lule, Additional Public Prosecutor for Non-applicant No.1.
Shri Rahul Jadhao, Advocate h/f Shri N. B. Rathod, Advocate for Non-
applicant No.2.

CORAM: URMILA JOSHI-PHALKE, J.
DATED : 08/04/2026.

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. By this application, applicant is seeking quashing of the FIR in connection with Crime No.245/2020 registered under Sections 188, 269, 270 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Epidemic Diseases Act, 1897.

3. A crime is registered on the basis of report lodged by the non-applicant No.2 that he is working as a Medical Officer in the Ambulance Service having emergency medical service No.108 for past two years. Due to Pandemic Covid-19, he was required to attend and to receive the patient affected by the said Covid-19. On 04/07/2020, the Medical Superintendent Dr. Shyam Tombre called the complainant on his phone and informed immediately to approach the police station to take the help of police official to intercept Dr. Bhagwandas Shankardas Zawar i.e. present applicant and to bring him at Covid Care Centre, Mehekar. It is further alleged that on 04/07/2020, he reached the hospital/clinic of the present applicant with the help of the police authority. He requested to the applicant to accompany him, but there was no response from the family members of the present applicant. With the help of megaphone, an announcement was made to the applicant to co-operate. At that time, he received information that the applicant has already reached the Covid-19 Centre. Therefore, he again reached the Covid-19 Centre and thereafter he lodged the report. On the basis of said report, the police have registered a crime against the present applicant.

4. Heard learned counsel for the applicant, who submitted that the recitals of the FIR itself show that after some time, present

applicant has approached to the Covid-19 Centre. Admittedly, he was not found either in the hospital or in the house when the non-applicant No.2 visited his house or the hospital.

5. There is no allegation that due to his living in the Covid-19 Centre, anybody was affected as he was found Covid positive patient. Thus, he submitted that no offence either is made out under Sections 188, 269 or 270 of the IPC and therefore, as no prima facie case is made out against the present applicant, application deserves to be allowed.

6. Per contra, learned APP strongly opposed the said contention and submitted that considering the applicant was specifically intimated to remain present at Covid-19 Centre but he has not appeared there and there was a possibility of infection to the others due to free movement of the present applicant and thus, he has committed the offence punishable under Section 188 of the IPC, as there is disobedience of the order duly promulgated by the public servant. Thus, there is an offence committed by the present applicant under Sections 269 and 270 of the IPC also. In view of that, application deserves to be rejected.

7. Learned counsel for the non-applicant No.2 endorsed the said contention.

8. After hearing both the sides and on perusal of the entire investigation papers which are produced before me for perusal, it reveals that the present applicant was in Home Quarantine Centre and he was asked to appear at the Centre. Admittedly, notice issued to the present applicant shows that he was asked to appear in the said Quarantine Centre, but he subsequently appeared at 1.15 p.m. Thus, it is not the case that he did not turn up to the Quarantine Centre. In fact, the statement of various witnesses which are recorded. All the statements show that subsequently, he reported to the said Quarantine Centre. Thus, as far as the offence under Section 188 of the IPC which deals with the disobedience of the order duly promulgated by the public servant is not attracted against the present applicant.

9. Similarly, offence punishable under Section 269 of the IPC deals with negligent act likely to spread infection of disease dangerous to life. This is also not attracted as there is no allegation that he unlawfully or negligently does any act which he knows or has reason to believe to be likely to spread the infection of any disease dangerous to life and which shall be punishable with imprisonment of either description for a term which may extend to six months.

10. Similarly, ingredients of Section 270 of the IPC are also not attracted and therefore, in view of investigation carried out by the Investigating Agency, no prima facie case is made out against the present applicant.

11. By applying the parameters laid down by the Hon'ble Apex Court in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp.(1) SCC 335***, which are reproduced as under :-

“(1) 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.”

12. The application deserves to be allowed. Accordingly, I proceed to pass following order :-

ORDER

- i] The application is allowed.
- ii] The FIR in connection with Crime No.245/2020 registered under Sections 188, 269, 270 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Epidemic Diseases Act, 1897 is hereby quashed and set aside to the extent of present applicant.
- iii] The application is disposed of.

[JUDGE]