



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3257 OF 2025

Ms. Farah Deeba)
Age. 46 years, Occ. Household)
R/at. B-7, 801, Margosa Heights)
Mohammadwadi, Pune - 411060) ..Petitioner

Vs.

1. The State of Maharashtra)
(At the instance of Kalepadal)
Police Station in FIR No.178 of 2025))
2. Sheetal Vinod Bhujbal)
Age - 35 years,)
B-6/602, Margosa Heights)
Mohammadwadi, Pune - 411060) ..Respondents

Mr. Harshad Sathe i/b. Mr. Saurabh Bhutala for Petitioners.

Mrs. M. M. Deshmukh, APP for Respondent No.1 - State.

Mr. Ratandeep Gaikwad, API, Kalepadal Police Station, Pune.

CORAM	:	A. S. GADKARI AND RAJESH S. PATIL, JJ.
RESERVED ON	:	25th June 2025.
PRONOUNCED ON	:	29th July 2025.

JUDGMENT (PER : RAJESH S. PATIL, J.) :-

1) By this Petition filed under Article 226 of the Constitution of India r/w Section 482 of the Code of Criminal Procedure, the Petitioner is seeking quashing of First Information Report (FIR) No. 178 of 2025, dated 15th May 2025, registered with Kalepadal Police Station, Pune, for the offences punishable under Sections 152, 196, 197, 352 and 353 of the Bharatiya Nyay Sanhita, 2023 (for short 'BNS 2023').

2) Heard Mr. Sathe, learned Advocate for the Petitioner and Smt. Deshmukh, learned APP for State. Perused entire record produced before us.

3) In the FIR it is alleged that, both the Petitioner and the first informant are residing in the same Housing Society in Pune City, known as Margosa Heights. A WhatsApp group was created by a female member of the Society, only for the females residing in the Society named as 'Sath Sath Margosa Ladies'. Around 380 female members became part of this WhatsApp group. On 7th May 2025, the Indian Armed Forces carried out 'Operation Sindoor' thereby destroying terrorist launch pads situated in and around the neighbouring country. The members of the WhatsApp group of 'Sath Sath Margosa Ladies' started praising the Indian Armed Forces for conducting 'Operation Sindoor'. Many members of the group started sending their commending messages in the group. The Petitioner at the

same time sent a message stating that, 'we have T.V. and mobiles, therefore, the group should not be used as a National News Channel' to which one of the group member replied saying that, it was perfect time to show solidarity towards the Nation, Army and Prime Minister, ending her message with words 'Jai Hind, Jai Bharat'. To which a few other members replied 'Jai Hind'. Immediately the Petitioner reacted with laughing emoji. Thereafter there were certain exchange of WhatsApp messages. The Petitioner subsequently sent few more messages on the said WhatsApp group and also updated WhatsApp status with a link of a Facebook video to which some of the members of the WhatsApp group who were known to the Petitioner, objected. The Petitioner went ahead and also sent further messages which were against the Prime Minister and also against the country. Based on such WhatsApp messages sent by the Petitioner, the FIR was lodged by the First Informant against the Petitioner.

4) It is contended by the Petitioner that, the Petitioner was mentally not in a sound condition, when the alleged incident took place. As soon as the Petitioner realized that, few members of the WhatsApp group, including Complainant, did not compliment the messages which were sent by the Petitioner, she immediately deleted those WhatsApp messages. It is also further contended, that the Petitioner had in fact apologized to the Complainant, when the Complainant expressed her condemnation towards

the messages posted by the Petitioner. The Petitioner is already at a loss as she was expelled from the school where she was teaching. The notice under Section 41-A of the Code of Criminal Procedure was not served by a recognized method. The said notice was served on WhatsApp belatedly. There are no merits in the contents of the FIR, hence no purpose would be served if the FIR is kept pending. Therefore, the FIR requires to be quashed and set aside.

5) Per contra, learned APP strongly opposed the quashing of the FIR and submitted that on perusal of the entire FIR, it shows that, there is ample evidence against the Petitioner to implicate her under Section 152, 196, 197, 352 and 353 of the BNS 2023. Petitioner is accused of uploading scene/picture of burning Indian National Flag on her WhatsApp status. She is also accused of uploading derogative remarks against the country by using the word "Makkar". Going through the statement recorded it clearly shows that, a *prima facie* offence as alleged is made out against the Petitioner. Therefore, the investigation of crime needs to be completed to take it to its logical end and the impugned FIR cannot be quashed at this stage. The fact that, the Petitioner herself has claimed that, her mother's and father's families hail from Pakistan and therefore, when the investigation is still in progress, the FIR should not be quashed at this stage.

6) For quashing criminal proceedings under Article 226 of

Constitution of India or under Section 482 of Code of Criminal Procedure, it has to be seen whether the allegations in the complaint and FIR *prima facie* indicate that, there is sufficient material against the accused person of having committed an offence.

7) The Petitioner is a well educated lady holding a Masters Degree in English and also a B. Ed. Degree. It is alleged in the FIR that, the Petitioner uploaded a video of burning Indian National flag, on her WhatsApp status. So also, when the group members of WhatsApp group were praising the Indian Army for their achievement in 'Operation Sindoor', she in a very careless manner reacted with a "laughing emoji" in the group. She had further sent a WhatsApp message on 10th May 2025, stating therein that, the families of the Petitioner's i.e. paternal and maternal sides both are from Pakistan. She has further used a word 'Makkar' before India. Apart from these messages targeting the country, she has also sent messages targeting the Prime Minister of our country. Though the Petitioner tendered her apology to the Complainant, however, in our view, innumerable damage has already been caused by the Petitioner's messages which were circulated. The unrest in the local areas after the message of the Petitioner, can be seen from the photographs which are exhibited to the Petition, which shows group of people have approached local police station.

8) In our view, the acts of the Petitioner, initially reacting with a

laughing emoji, when others in the WhatsApp group were applauding the steps taken by the Indian Government and the Indian Army with respect to 'Operation Sindoor' and thereafter, she on her WhatsApp status, uploaded a video wherein the Prime Minister of India, has been shown as sitting on a rocket and the Indian National flag shown burning, attracts the provisions of Section 152, 196, 197, 352 and 353 of the BNS 2023. Further, the Petitioner is seen to be informing the Complainant that her families belonged to neighboring country Pakistan and she addressed the Nation as 'Makkar'. This itself shows the *mens rea* behind the alleged crime committed by the Petitioner.

9) It is the petitioner's claim that her maternal and paternal families hail from Pakistan, in such a situation she making such a derogatory statement against India will have some bearing on the situation then prevailing and as to the statement/s she made. Her statement had come immediately after the Indian army successfully conducted the 'Operation Sindoor' therefore her such statement and her own WhatsApp status had created a high possibility of stirring up with the emotions in group of people on the WhatsApp group and subsequently others going to the local police station and raising slogans and 'dharna' thereby insisting police to take action against the petitioner. What is expected of a prudent person is that, before putting up any kind of message on social group, a

person like the petitioner who is educated and teacher by profession should also think about the *pros and cons* which might occur due to sending online messages through her social media account (WhatsApp). In such a situation, she subsequently adopting a defence that, she has now realized those messages were controversial and posted them due to her deranged mental condition will not be helpful to her, as it will be duty of police to further investigate and find out in these circumstances where she herself claims that families of her father and mother are from the neighbouring country, Pakistan.

10) The intention of the Petitioner becomes an essential ingredient to be judged with the kind of language she has used for India and more particularly when the whole country was feeling proud of our army. She could have probably avoided reacting with a laughing emoji, when others were celebrating the event of successful mission of the Indian Army of 'Operation Sindoor'.

11) Admittedly, in the present proceedings, the notice under Section 41(A) of the Code of Criminal Procedure was issued to the Petitioner. The only objection taken by the Petitioner towards the notice, is that, the said notice was sent on WhatsApp. The Petitioner having knowledge that, the notice had been issued to her, ought to have replied it. Instead Petitioner chose to remain silent on the allegations made in the

Notice.

12) The police are yet to file chargesheet, therefore, at this stage, according to us, the FIR cannot be quashed. After hearing Advocates for both sides and perusing the record, we had in fact given an opportunity to learned Advocate appearing for Petitioners, to withdraw the present Petition and file an Application for discharge before the trial Court, if police files charge-sheet. However, on the next day, learned Advocate for the Petitioner submitted that, the Petitioner is inviting an Order on merits and does not wish to withdraw the writ petition.

13) The Supreme Court in the cases of (i) *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*, AIR 1992 SC 604, (ii) *Rajeev Kourav vs. Baisahab & others*, (2020) 3 SCC 317, and (iii) *Kaptan Singh vs. State of Uttar Pradesh and others*, (2021) 9 SCC 35, has held that, exercise of powers under Section 482 of the Code of Criminal Procedure to quash the proceedings is an exception and not a rule. Appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure.

14) Similarly, in the case of *CBI vs. Aryan Singh*, AIR 2023 SC 1987, the Supreme Court has held that, while exercising the power under Section 482, the High Court should not conduct a mini trial.

15) In a recent case of *Ashraf Khan alias Nisrat Khan Versus State of Uttar Pradesh, Criminal Misc. Bail Application No.20227 of 2025*, the *Allahabad High Court*, deciding a Bail Application, where the accused was prosecuted for uploading edited videos on his Facebook account during the India-Pakistan war. The videos depicted the Prime Minister of India moving next to a donkey pulling a cart and image implying that the Prime Minister was seeking an apology from Pakistan. The Court, while rejecting the Bail Application, held that, though our Constitution gives Right to Freedom of Speech and Expression to every citizen, that freedom does not stretch to permit a person posting videos other posts disrespecting the Prime Minister, the Indian military and its officers. Such content could cause disharmony among the people of India and in some cases could promote separatism and endangering the sovereignty, unity, and integrity of India. It has become a fashion among certain groups of people to misuse social media in the garb of "Freedom of Speech and Expression" by making baseless allegations against high dignitaries, posting such material that creates hatred and disharmony among the people. Such actions are detrimental to national unity and public order. Such action shows disrespect not only against Prime Minister of country but also against the Indian Military and its officers. We are in agreement with the view taken by the Allahabad High Court in the case of *Ashraf Khan* (supra).

16) After considering the contents of FIR and the various

documents on record, we are satisfied that it constitutes the ingredients of the alleged offences. Also taking into account the law as laid down by the Supreme Court in the judgments referred above, we find that there is no merit in the present Petition and the same deserves to be dismissed.

17) Hence, present Petition stands dismissed.

(RAJESH S. PATIL, J.)

(A. S. GADKARI, J.)